against unfair taxation of banking capital; to the Committee on Ways and Means.

Also, memorial of retail druggists of Douglas County, Nebr., favoring the passage of House bill 13305, the Stevens standard-price bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Harry W. Dotson and 6 other citizens of Nebraska, protesting against national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of B. B. Bassett, of New Britain, Conn., in re tax on intoxicating liquors; to the Committee on Ways and Means.

Also, petition of the Hartford Clearing House Association, Hartford, Conn., protesting against the proportion of the emergency war tax to be placed on banks; to the Committee on Ways and Means.

By Mr. MAGUIRE of Nebraska: Petition of business men of Talmage, Nebr., favoring the passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. J. I. NOLAN: Protest of the Clearing House Association of San Francisco, Cal., against that section of House bill 15657 affecting bank directorates; to the Committee on Ways and Means.

By Mr. PAIGE of Massachusetts: Petition of 26 citizens of Worcester County, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. STONE: Petitions of sundry citizens of Indiana, favoring national prohibition; to the Committee on Rules.

By Mr. TREADWAY: Papers to accompany a bill to increase the pension of Henry C. Rand; to the Committee on Invalid Pensions.

By Mr. WEAVER: Petition of Woman's Home Missionary Society of First Methodist Episcopal Church of Oklahoma City, protesting against House bill 16904, relative to railroad tracks opposite Sibley Hospital; to the Committee on the District of Columbia.

Also, petition of Rev. T. J. Davis and many other citizens of Pottawatomie County, Okla., favoring national prohibition; to the Committee on Rules.

Also, petition of C. E. Hall and other citizens of Stillwater, Okla., for relief against unfair methods of mail-order houses; to the Committee on Ways and Means.

Also, petition of Miss Bessie Hupp and 24 others, of Oklahoma City, Okla., and Mrs. M. E. Manwaring, of Oklahoma City, Okla., favoring national prohibition; to the Committee on Rules.

SENATE.

MONDAY, *September 28, 1914.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, Thou art the God and Father of us all. Thou dost take within Thy care and within Thy great purpose all men and all nations and all ages. Thou art the center and source of all power and of all greatness and of all good. We come to Thee in the discharge of the sacred and important duties of this hour and lift our hearts to Thee for Thy blessing and guidance; that we may be saved from every selfish purpose; that we may be given a clear insight into every duty; that we may be given courage for all the obligations of life. Grant that the service we render this day may be first of all to God and then to our Nation and to the world, and may all that is done be with the approval of the God and Father of us all. For Christ's sake. Amen.

The Secretary proceeded to read the Journal of the proceedings of the legislative day of Thursday, September 24, 1914, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the bill (S. 5798) authorizing the health officer of the District of Columbia to issue a permit for the removal of the remains of the late Earl A. Bancroft from Glenwood Cemetery, District of Columbia, to Mantorville, Minn.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 657) to authorize the reservation of public lands for country parks and community centers within reclamation projects in the State of Montana, and for other purposes.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. 18732) to amend section 98 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

Mr. TOWNSEND. In behalf of the junior Senator from Illinois [Mr. SHERMAN], I desire to present two telegrams in reference to the so-called revenue-tax bill, which I ask may be printed in the RECORD without reading.

There being no objection, the telegrams were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

CHICAGO, ILL., *September 23, 1914.*

Hon. LAWRENCE Y. SHERMAN,
Senate, Washington, D. C.:

The Chicago Real Estate Board, the largest and oldest in the world, representing thousands of realty owners, protests most strenuously against the proposed taxes in the so-called war-tax measure on real-estate conveyances, mortgages, contracts, leases, etc. Our commodity bears the heaviest burden of local taxation, never is concealed, and in this State is taxed twice when mortgaged; and we likewise protest against the proposed real-estate brokers' license of $50.

THE CHICAGO REAL ESTATE BOARD.

CINCINNATI, OHIO, *September 17, 1914.*

Senator LAWRENCE Y. SHERMAN,
United States Senate, Washington, D. C.:

The National Association of Life Underwriters in convention assembled, representing over 103,000 agents of over 100 legal reserve life insurance companies of all sections, and in the name of our 25,000,000 policyholders, protest vigorously against the reported proposal to impose a Federal stamp tax upon our policyholders. We shall do our utmost to arouse them against this additional exaction among America's thrifty and provident self-taxing citizens. No European countries, even under pressure of war, so far as known, have resorted to taxing life insurance. Why should America, at peace, increase the cost of protecting their families in addition to the present burdensome taxes of 48 States? We submit that taxing only the legal reserve companies, even those purely mutual, and excluding very properly assessment and fraternal associations and therefore increasing the cost to the 30,000,000 policyholders upon whom this additional tax will solely fall, is unjustified and indefensible. When England exempts money paid for life insurance from her income tax should peaceful America tax it? We earnestly request that at a time when a decreased cost of living is demanded so vital an agency for thrift and preventive of dependency as life insurance will not be increased in cost, especially by a Congress that wisely struck from the income-tax bill the provisions taxing life insurance. This Government has already the discreditable distinction of being the only one in the whole world to tax life policyholders. Surely the present Congress will not increase this burden.

ERNEST J. CLARK,
President National Association of Life Underwriters.

Mr. MARTINE of New Jersey. I have received a letter, transmitting a petition from the banking and currency committee of the New Jersey Bankers' Association. I ask that the petition may be printed in the RECORD and properly referred.

There being no objection, the petition was referred to the Committee on Banking and Currency and ordered to be printed in the RECORD, as follows:

To the Federal Reserve Board:

The banking and currency committee of the New Jersey Bankers' Association, acting under authority conferred by that association, and at the request of the national banks of northern New Jersey, respectfully petition your honorable body to review the assignment of the banks of northern New Jersey to the Federal reserve district No. 3 (Philadelphia) and to alter the district lines so that the banks in New Jersey north of the northerly line of the counties of Ocean and Mercer shall be included in Federal reserve district No. 2 (New York). This would involve transferring the banks in the counties of Monmouth, Somerset, Passaic, Morris, Middlesex, Union, Hudson, Sussex, Hunterdon, Essex, Bergen, and Warren, in the State of New Jersey, from the Federal reserve district No. 3 (Philadelphia) to Federal reserve district No. 2 (New York)

We present to you herewith petitions signed by 123 member banks in the counties above mentioned, asking for this change and authorizing us to represent them. The capital and surplus of the banks signing these petitions is $31,226,427; their deposits, $156,465,000. Nine banks did not sign petitions, the capital and surplus of those not signing being $1,177,500 and their deposits $5,310,000. These figures are taken from the published report of the Comptroller of the Currency for 1913, those being the latest official figures available to us.

Northern New Jersey is allied so closely with New York, both commercially and financially, that the banks of that section should be assigned to the New York district, in compliance with the Federal reserve act, section 2, which says:

"That the districts shall be apportioned with due regard to the convenience and customary course of business, and shall not necessarily be coterminous with any State or States."

The volume of checks drawn on any particular city which are received on deposit by a bank show very accurately the amount of business which is done by the community in which the bank is located with the community on which the checks are drawn. Taking this method as a basis, we find that the commercial business of northern New Jersey with New York is fully ten times as much as the commercial business of that section with Philadelphia, and throughout that section of the State the ties, both commercial, financial, and social, are almost entirely with New York City. The industrial enterprises of northern

New Jersey, especially those located in the large cities of Hudson, Passaic, Essex, Union, and Middlesex Counties, do a very much greater volume of business with New York than with Philadelphia. Most of these concerns have offices in New York City, while but few of them have offices in Philadelphia. We append tables showing the population and industrial importance of northern New Jersey.

We are advised by the banks of northern New Jersey that of the checks which they receive on deposit drawn on the cities of New York and Philadelphia from 85 per cent to almost 100 per cent are drawn on New York City, and on account of the large volume and amount of these checks payable in New York City it is essential that they be sent directly there in order to insure prompt presentation and prompt notice in case of nonpayment. It is impracticable to send these checks to New York by way of the Philadelphia reserve bank. This very same question will arise in connection with the very heavy volume of checks payable in northern New Jersey which are received on deposit by the New York City banks. An analysis of figures which were received by the Comptroller of the Currency from banks of northern New Jersey during the month of June last will demonstrate the close relationship existing between New York City and northern New Jersey, and will show that this relationship is much more active and close than that existing between northern New Jersey and Philadelphia. In taking these figures into consideration it must be borne in mind that the comptroller's figures separate New York City from New York State, but do not separate Philadelphia from the State of Pennsylvania. We give below figures covering the month of June furnished by five representative institutions in Newark, N. J., showing the volume of checks on Newark received from New York City and from Philadelphia and the currency shipments between Newark and New York, there being none with Philadelphia:

On local banks, received from New York City	$19,096,489
On local banks, received from Philadelphia	2,351,506
Currency shipments to and from New York City	2,034,000

At present many of the banks in northern New Jersey maintain accounts with Philadelphia banks, but these accounts are not maintained by reason of the natural flow of business there, but are due entirely to the fact that New York City banks have for many years charged exchange for the collection of country checks, whereas Philadelphia banks have been willing to collect these checks at par. Prior to the time when the New York Clearing House adopted the rule requiring its member banks to charge exchange on country checks the banks of northern New Jersey, with very few exceptions, carried no accounts in Philadelphia, and the figures will demonstrate that immediately after the imposition of this exchange charge by the New York Clearing House the deposits of country banks with Philadelphia banks increased very materially. With equal facilities provided by the banks of the two cities, practically all of these accounts kept in Philadelphia by the banks of northern New Jersey would be eliminated, as there is not a sufficient volume of business on the territory naturally covered by Philadelphia to warrant the maintenance of these accounts. These facts will also account for the considerable volume of business received by the banks of northern New Jersey from the banks of Philadelphia, as checks on northern New Jersey from all over the country are by reason of the exchange charge imposed by the New York clearing house diverted to Philadelphia rather than through their natural course by way of New York.

The relations existing between the banking institutions of northern New Jersey and the banks of New York City have always been most intimate, and the transactions between that section of New Jersey and New York City are carried on in a very large degree through personal contact, resulting in mutual advantage. On account of this close relationship no artificial barriers should be erected, and if erected, will prove injurious to the banks of northern New Jersey.

A considerable number of the banks in northern New Jersey at certain times in the year purchase commercial paper. This is all purchased through New York brokers, and is usually passed upon by New York banks before being purchased.

The bankers of New York City are in very close touch with the credit standing of northern New Jersey corporations, and are thus in much better position to advise with the directors of the Federal reserve bank of New York City regarding conditions in northern New Jersey than are the bankers of Philadelphia.

Many of the industries of northern New Jersey maintain bank accounts in New York City as well as in New Jersey, sell their paper in the New York markets, and are otherwise financed there. This further results in very close and accurate knowledge by the bankers of New York City of the credits and needs of the industries of northern New Jersey.

The very large commuting element in the population of northern New Jersey alone causes a very considerable flow of business to and from New York City. Many considerable towns in northern New Jersey are inhabited almost entirely by people who are in business in New York City. We are advised by the Pennsylvania Railroad Co. that during the past year on their lines east of and including New Brunswick 11,051,715 passengers were carried to and from New York City. The Central Railroad Co. advised us that on their lines in northern New Jersey they have at least 12,000 commuters from points in northern New Jersey to New York City, and, in addition, they carry about 35,000 passengers to and from New York City and New Jersey points each day. The Delaware, Lackawanna & Western Railroad Co. advise us that the number of passengers carried between stations in northern New Jersey and New York City during the month of June, 1914, was 1,421,537. The Erie Railroad Railroad Co. advise us that in June, 1914, they carried 1,555,314 passengers between stations in northern New Jersey and New York City. These figures show that over 60,000,000 passengers per year are carried between New York City and northern New Jersey points, and this does not include the traffic from points in Hudson County which reaches New York City by other means than the railroads. The retail purchases of a large portion of the commuting element of the population are made in New York City, and much of the wholesale and retail business throughout northern New Jersey follows the same course.

A large proportion of the business of many banks located in the commuting cities and towns of northern New Jersey are accounts of New York business men residing in those town and cities. A recent agreement, which has been entered into by many of the country banks located near New York City provides that the New York Clearing House banks will take checks on these banks at par, the local bank agreeing to remit for them in New York Clearing House funds at par on receipt. These checks are therefore readily received in New York, but if northern New Jersey were in another Federal reserve district than New York City this arrangement would probably be terminated, and it is unlikely that New York City banks would receive these checks freely if they had to collect them through the Federal reserve bank in New York City, and from that bank through the Federal reserve bank in Philadelphia. This would result in the transfer of many of these accounts of New York men in the local banks to banks in New York City.

Efforts are already being made by New York City banks to secure the accounts of business men and industrial concerns located in northern New Jersey, the New York banks using the argument that the New Jersey banks being attached to the Philadelphia reserve bank district will interfere with the availability of deposit accounts in New Jersey banks. This will probably result in the diversion of considerable business from New Jersey banks to the banks of New York City if the present assignment of the northern New Jersey banks is continued.

Access to New York City from northern New Jersey is rapid and easy, and to Philadelphia is much longer, and frequently more difficult, as few portions of the northern part of the State have direct train service to Philadelphia, while all have direct train service to New York City. From certain sections in the northern part of New Jersey it is impossible to reach Philadelphia, transact business and return the same day, whereas New York City can be reached from every part of northern New Jersey with time for the transaction of business and return within convenient hours of the same day. Thus from Newton, the county seat of Sussex County, a trip to Philadelphia, by way of New York, which is the quickest route, would involve leaving Newton at 9.10 a. m., reaching Philadelphia at 3 p. m. The only other route to Philadelphia, without going through New York City, involves leaving Newton at 9.10 a. m., reaching Philadelphia at 4.17 p. m., with three changes of cars. On account of the large number of commuters living throughout northern New Jersey the train service to New York is very frequent and good, making a trip to that city practically as convenient as going from one part of New York City to another. Hudson County and, to a lesser extent, Essex County, on account of the tube connections with New York City, are practically a part of New York City for banking and business purposes, fully as much so as is Brooklyn, and the same condition is to a very large extent true as regards the other near-by counties.

Six banks in Hudson County are associate members of the New York Clearing House and clear their checks there every day. We give below several examples of the time of transit from down town in New York City to points in New Jersey, as contrasted with the time of transit to points within the city limits of New York City:

Newark, 20 minutes by Hudson & Manhattan Railroad.

Exchange Place, Jersey City, 3 minutes by Hudson & Manhattan Railroad.

Hoboken, 9 minutes by Hudson & Manhattan Railroad.

Bayonne, 26 minutes by Central Railroad from Liberty Street.

Elizabeth, 30 minutes by Central Railroad from Liberty Street.

Passaic, 35 minutes by Erie Railroad from Chambers Street.

Paterson, 45 minutes by Erie Railroad from Chambers Street.

Ninety-sixth Street, New York City, 16 minutes from city hall by subway.

Two hundred and forty-second Street and Broadway, 42 minutes from city hall by subway.

One hundred and eighty-first Street and Boston Road, 40 minutes from city hall by subway.

One hundred and twenty-fifth Street and Broadway, 22 minutes from city hall by subway.

St. George, Staten Island, 20 minutes from Whitehall Ferry.

Mariner's Harbor, Staten Island, 43 minutes from Whitehall Ferry.

Tottenville, Staten Island, 78 minutes from Whitehall Ferry.

Jamaica, borough of Queens, 20 minutes from Pennsylvania Station, Thirty-third Street.

Jamaica, borough of Queens, 40 minutes from down town, New York City.

Flushing, borough of Queens, 22 minutes from Pennsylvania Station, Thirty-third Street.

Flushing, borough of Queens, 42 minutes from down town, New York City.

Far Rockaway, borough of Queens, 45 minutes from Pennsylvania Station, Thirty-third Street.

Far Rockaway, borough of Queens, 65 minutes from down town, New York City.

The matter of telephone service also enters into this question of convenience, as connections with New York City are much quicker, more satisfactory, and cheaper than telephone connections with Philadelphia.

The members of your honorable body fully realize that the money transactions in our section, especially those running into large figures, necessitate the use of checks payable in New York City, resulting in our banks being constantly called upon for New York certifications. Checks which are not made payable through the New York Clearing House will not fulfill the requirements. As a consequence, if our reserve is kept elsewhere than in New York City, large balances will have to be maintained by us in New York banks, not only at a loss in earnings, but also to the detriment of all the manufacturing communities in this section, because of the diminished loaning power of the banks.

Accounts will also have to be kept in New York City to cover currency transactions, most of which are now handled by messenger and which run into very large amounts. Many of our banks have currency transactions with New York City aggregating in the neighborhood of $500,000 a month, and the currency shipments of at least two of the banks in Jersey City average over $1,000,000 a month, all handled by messenger.

A great bulk of the coupons are payable in New York City, including those of a large number of the municipalities and corporations located in northern New Jersey, and the collection of these coupons by our banks will necessitate accounts in New York City if we are not connected with that reserve district.

A very considerable amount of foreign exchange is dealt in, both buying and selling, by the banks of our section of New Jersey, and this business has all been done through New York on account of the better facilities and closer rates that can be obtained there, and it would be a serious disadvantage to our banks to interfere in any way with the trend of this business to its natural center.

If it has been thought to obviate the difficulties which we anticipate will arise through our being put in another than our natural district by some method of clearing checks, why should you not adopt the simpler and surer method of putting us in the district in which we belong through common association, natural trend of business, both banking and commercial, and by physical contiguity? It should not be necessary to devise means of overcoming the difficulties created by our being placed in a district artificially created in direct opposition to the natural flow of trade.

The recent election of directors for the Federal reserve bank of Philadelphia demonstrates the impossibility of electing any representative banker from New Jersey as a member of the board of that bank. This is a serious condition for the bankers of northern New Jersey, as the bankers of Philadelphia and Pennsylvania are not closely in touch with the needs and credits of northern New Jersey, whereas lack of such representation, if we were affiliated with the New York reserve bank, would not be material, owing to the close knowledge of our locality and of its needs and credits by the bankers representing New York City on the board of the Federal reserve bank of New York.

It is most desirable for the success of the Federal reserve system that the State institutions should become affiliated as members. If the present handicap due to the assignment of northern New Jersey banks continues, it is very improbable that any State institutions will become members. Positive statements to this effect have been made to us by a considerable number of the more important State institutions in the northern part of the State, and these statements carry all the more weight as their reserves are freed by legislation from restriction to any one locality and follow the natural channels of business. If the State institutions of northern New Jersey remain out of the system, the member banks will be at a serious disadvantage in competition with them under present conditions.

At the time the organization committee was holding hearings in New York we took a poll of the banks of New Jersey and reported to that committee that the banks of the counties mentioned above desired to be affiliated with the New York City district, and the poll which the committee later took will confirm the facts which we laid before them at that hearing.

The figures of the banks of northern New Jersey, in accordance with their report to the Comptroller of the Currency on June 30, 1914, are as follows:

Capital	$16,307,000
Surplus	16,183,500
Undivided profits	7,938,239
Individual deposits	157,522,332
Bank deposits	17,115,557

If the northern New Jersey banks are continued in the Philadelphia district, it will very seriously interfere with the smooth conduct of their business under the Federal reserve act, will take from them many of the advantages which they would otherwise gain through membership in the Federal reserve system, and will prevent the fullest possible development of the system in this part of the State. It is directly contrary to the currents of trade and banking, and as such can not help being injurious to the State and its industries. The banking business of a section does not originate with the banks themselves, but arises out of the commerce of their section and follows the course of trade, and anything which tends to disturb the flow of banking business along with the natural flow of general business can not but be injurious. Any action which places the national institutions at a disadvantage in their competition with the State institutions should not be continued, as it is wise to encourage the greatest possible development of banks under national charters.

Respectfully submitted.

BANKING AND CURRENCY COMMITTEE
NEW JERSEY BANKERS' ASSOCIATION.
WALTER M. VAN DEUSEN, *Chairman,*
National Newark Banking Co., Newark, N. J.
ROBERT D. FOOTE,
National Iron Bank, Morristown.
BLOOMFIELD H. MINCH,
Bridgeton National Bank, Bridgeton.
HENRY G. PARKER,
National Bank of New Jersey, New Brunswick.
EDWARD C. STOKES,
Mechanics' National Bank, Trenton.

MANUFACTURES, NEW JERSEY.

Statement showing number of wage earners and value of products for the years 1899, 1904, and 1909 in the principal manufacturing centers of northern New Jersey.

City, town, or borough.	Average number of wage earners.			Value of products.		
	1909	1904	1899	1909	1904	1899
Newark	59,955	50,697	42,878	$202,511,520	$150,055,227	$112,728,045
Jersey City	25,454	20,353	17,391	128,774,978	75,740,934	72,929,690
Bayonne	7,519	7,057	4,670	73,640,900	60,633,761	38,601,429
Perth Amboy	5,866	3,950	2,005	73,092,703	34,800,402	14,061,072
Paterson	32,004	28,509	28,542	69,584,351	54,673,083	48,502,044
Passaic	15,086	11,000	6,399	41,729,257	22,782,725	12,804,805
Elizabeth	12,737	12,335	9,498	29,147,334	29,300,801	22,861,375
Hoboken	8,100	7,227	5,712	20,413,015	14,077,305	10,433,079
Harrison	6,500	4,040	2,839	13,142,377	8,408,924	6,086,477
New Brunswick	5,264	4,590	3,835	10,004,802	8,916,983	5,791,321
West New York	1,508	(1)	(1)	9,273,717	(1)	(1)
Orange	4,383	2,450	1,640	9,175,910	6,150,635	2,995,688
Phillipsburg	3,432	3,148	2,216	9,150,227	6,684,173	4,584,886
Garfield	2,530	(1)	(1)	8,893,710	(1)	(1)
Kearny	2,820	1,303	986	8,306,276	4,427,904	1,607,002
Union	2,894	1,856	1,376	7,941,047	3,512,451	3,403,136
Bloomfield	2,957	1,893	1,612	5,894,710	4,645,483	3,370,924
West Hoboken	2,782	3,562	2,733	5,577,439	5,947,267	4,769,436
East Orange	1,386	854	690	3,724,879	2,326,552	2,086,910
Plainfield	1,758	1,986	1,384	3,648,745	3,572,134	2,437,434
Irvington	540	(1)	(1)	3,017,824	(1)	(1)
Hackensack	738	812	487	1,977,966	1,488,358	782,232
Long Branch	415	294	96	1,116,663	577,268	280,590
Montclair	252	151	169	1,025,585	621,145	663,592
West Orange	476	(1)	(1)	747,684	(1)	(1)
Morristown	201	307	252	724,233	704,412	595,592
Asbury Park	264	(1)	(1)	602,194	(1)	(1)

[1] Figures not available.

POPULATION, NEW JERSEY.

Statement giving the population for 1900 and 1910 of 32 incorporated places having a population of over 10,000, located in northern New Jersey.

City, town, or borough.	1910	1900	City, town, or borough.	1910	1900
Newark	347,469	246,070	Plainfield	20,550	15,369
Jersey City	267,779	206,433	Kearny	18,659	10,896
Paterson	125,600	105,171	Bloomfield	15,070	9,668
Elizabeth	73,409	52,130	Harrison	14,498	10,596
Hoboken	70,324	59,364	Hackensack	14,050	9,443
Bayonne	55,545	32,722	Phillipsburg	13,903	10,052
Passaic	54,773	27,777	West New York	13,560	5,267
West Hoboken	35,403	23,094	Long Branch	13,298	8,872
East Orange	34,371	21,506	Morristown	12,507	11,267
Perth Amboy	32,121	17,699	Irvington	11,877	5,255
Orange	29,630	24,141	West Orange	10,980	6,889
New Brunswick	23,388	20,006	Garfield	10,213	3,504
Montclair	21,550	13,962	Asbury Park	10,150	4,148
Union	21,023	15,187			

Table compiled from information furnished by the banks of northern New Jersey, showing time of travel to New York City and Philadelphia, proportion of banking and commercial business as between New York City and Philadelphia, frequency of visits by bank representatives to New York City and Philadelphia, and character of population of the various counties.

County.	Population.	Time to New York.	Time to Philadelphia.	Banking with New York.	Commercial business with New York.	Visits by representatives to New York.	Visits by representatives to Philadelphia.	Character of population.
Bergen	138,002	10 to 50 minutes, direct.	2½ to 4 hours, not direct	Over 90 per cent.	Practically 100 per cent.	2 to 6 times a week.	Hardly ever	Manufacturing, commuting.
Essex	512,886	20 to 40 minutes, direct.	1½ to 2½ hours, not direct, except Newark.	90 per cent	Over 80 per cent.	do	Never to twice a year.	Do.
Hudson	537,231	3 to 35 minutes, direct.	2 to 2½ hours, not direct, except Jersey City and Bayonne.	Over 95 per cent.	Over 90 per cent.	3 times a day	Rarely	Manufacturing.
Hunterdon	33,569	1½ to 2 hours, direct, except 3 towns.	1½ to 2½ hours, half direct	50 to 90 per cent.	50 to 90 per cent.	Twice a week.	Seldom	Farming.
Middlesex	114,426	1 to 1½ hours, direct, except 2 towns.	1½ to 2½ hours, 5 towns, direct.	75 to 90 per cent.	80 per cent	do	Rarely	Manufacturing, farming.
Monmouth	94,734	1 to 2 hours, direct	2 to 4 hours, half direct	90 per cent	90 per cent	do	do	Summer resort, farming.
Morris	74,704	60 to 90 minutes, direct.	3 to 3½ hours, not direct	Over 90 per cent.	Over 90 per cent.	Daily	do	Commuting.
Passaic	215,902	40 to 60 minutes, direct.	2½ to 4 hours, not direct	do	Over 95 per cent.	do	do	Manufacturing, commuting.
Somerset	38,820	1 hour, direct	1½ to 3 hours, part direct	90 per cent	90 per cent	do	Seldom	Commuting, farming.
Sussex	26,781	2 to 2½ hours, direct	6 hours, not direct	do	do	Twice a week.	Rarely	Farming.
Union	140,197	30 to 45 minutes, direct.	2 hours, direct	90 to 100 per cent.	90 to 100 per cent.	Daily	do	Manufacturing, commuting.
Warren	43,187	2 hours, direct, except 1 town.	3 to 4 hours, 2 places direct	Over 95 per cent.	95 to 100 per cent.	Weekly	do	Farming.

Mr. KERN presented memorials of the Tell City National Bank; the National Exchange Bank of Anderson; the Citizens' National Bank of Evansville; the Lynnville National Bank, of Lynnville; the Citizens' State Bank of Morocco; the Knisely Bros. State Bank, of Butler; the First National Bank of Jeffersonville; the Citizens' Savings & Trust Co., of Wabash; the First National Bank of Greens Fork; the Farmers' National Bank of Newcastle; the State Bank of Monticello; the State Bank of Battle Ground; the Howard National Bank, of Kokomo; Gaudy's State Bank, of South Whitley; the First Na-

tional Bank of Terre Haute; the Parker Banking Co., of Parker; the First National Bank of Medaryville; the First National Bank of Columbia City; the Northern Wayne Bank, of Economy; the Union County National Bank, of Liberty; the First National Bank of Brownstown; the Home National Bank, of Thorntown; the State Bank of Westfield; the Indianapolis Clearing House Association; the American Trust & Savings Bank, of Evansville; the Old State Bank, of Evansville; the West Side Bank, of Evansville; the Evansville Clearing House Association; and the Indiana Bankers' Association, all in the State of Indiana, remonstrating against the proposed tax on capital, surplus, and undivided profits of banks, which were referred to the Committee on Finance.

He also presented memorials of the Reserve Loan Life Insurance Co., of Indianapolis; the Lincoln National Life Insurance Co., of Fort Wayne; and the People's Life Insurance Co., of Frankfort, all in the State of Indiana, remonstrating against the proposed tax on life insurance policies, which were referred to the Committee on Finance.

He also presented a memorial of the Indianapolis Telephone Co., of Indiana, remonstrating against the proposed tax on telephone messages, which was referred to the Committee on Finance.

He also presented the memorial of Charles J. Daum, of Evansville, Ind., remonstrating against the proposed war tax on brokers, which was referred to the Committee on Finance.

He also presented a memorial of the C. Bayer Cigar Co., of Fort Wayne, Ind., remonstrating against the proposed tax on cigars, which was referred to the Committee on Finance.

Mr. SHEPPARD. I present a petition signed by a large number of cotton producers of Montague County, Tex., praying that some plan be devised whereby they may realize on a full product of cotton. I ask that the petition be printed in the RECORD, omitting the signatures, and that it be referred to the Committee on Banking and Currency.

There being no objection, the petition was referred to the Committee on Banking and Currency and ordered to be printed in the RECORD, as follows:

We, as producers of Montague County, Tex., do hereby ask our mother Government to tide us over this crisis in the cotton market by devising some plan whereby we may realize on a full product of our cotton.

We hereby ask our Government to devise some plan whereby we can get money direct from our Government without paying our banks such a high rate of interest.

We do ask our Government to advance us as much as 12 cents per pound, middling basis.

We furthermore ask, if we can not get money direct from you, that you set a reasonable rate of interest at the banks, not exceeding 5 per cent.

Mr. ASHURST presented a petition of the inmates of the Arizona State Prison, praying for the removal of certain restrictions on prisoners' mail, which was referred to the Committee on Post Offices and Post Roads.

Mr. VARDAMAN presented telegrams in the nature of memorials from the Port Gibson Bank and the Mississippi Southern Bank, of Port Gibson; the Bank of Hattiesburg; the First National Bank of Greenville; the Bank of Yazoo City; the Citizens' Bank & Trust Co., the Delta Bank & Trust Co., the Exchange Bank, and the Security Savings Bank, all of Yazoo City; of W. S. Webster and J. B. Small, of Winona; and of the Merchants and Farmers' Bank, of Columbus, all in the State of Mississippi, remonstrating against the proposed tax on capital and surplus of national banks, which were referred to the Committee on Finance.

He also presented a telegram in the nature of a memorial from George M. Reynolds, president of the Continental & Commercial National Bank, of Chicago, Ill., remonstrating against the enactment of legislation to prohibit interlocking directorates, which was ordered to lie on the table.

He also presented a telegram in the nature of a memorial from Lloyd T. Binnford, of Memphis, Tenn., remonstrating against the proposed tax on life insurance policies, which was referred to the Committee on Finance.

Mr. PERKINS presented memorials of the Merchants' Exchange and of the Chamber of Commerce of Oakland, Cal., remonstrating against the proposed tax on wine, which were referred to the Committee on Finance.

He also presented memorials of the Clearing House of Pasadena; the California National Bank, of Sacramento; the Peoples' Savings Bank of Sacramento; and the Clearing House Association of San Francisco, all in the State of California, remonstrating against the proposed tax on capital and surplus of banks, which were referred to the Committee on Finance.

He also presented a petition of Local Grange No. 332, Patrons of Husbandry, of Mountain View, Cal., praying for the enactment of legislation to prevent the extermination of the dove, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Local Grange No. 332, Patrons of Husbandry, of Mountain View, Cal., praying for the enactment of legislation to provide Government ownership of telegraph and telephone service, which was referred to the Committee on Post Offices and Post Roads.

He also presented the memorial of C. W. Godard, of Sacramento, Cal., remonstrating against the proposed tax on motion pictures, which was referred to the Committee on Finance.

Mr. MYERS presented a petition of the Woman's Christian Temperance Union of White Pine and Plains, in the State of Montana, praying for national prohibition, which was referred to the Committee on the Judiciary.

EDWARD B. KELLEY.

Mr. CLAPP, from the Committee on Indian Affairs, to which was referred the bill (H. R. 6939) to reimburse Edward B. Kelley for moneys expended while superintendent of the Rosebud Indian Agency in South Dakota, reported it with an amendment and submitted a report (No. 798) thereon.

THE OIL INDUSTRY.

Mr. CHILTON. I ask unanimous consent to call up at this time Senate resolution 442. It is a resolution which I submitted September 5, regarding the oil situation in New York, Ohio, West Virginia, and Pennsylvania, and it has been reported from the Committee to Audit and Control the Contingent Expenses of the Senate, committing the investigation to the Interstate Commerce Commission instead of to a special committee of the Senate. I do not think there will possibly be any objection to it, and we can dispose of it in a minute. I therefore ask unanimous consent for its consideration.

The VICE PRESIDENT. Is there objection to the consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee to Audit and Control the Contingent Expenses of the Senate with amendments.

Mr. SMOOT. I wish to ask the Senator if there is any expense attached to the investigation?

Mr. CHILTON. None whatever. It merely requests the Interstate Commerce Commission to make the investigation.

Mr. SMOOT. I have not read the resolution, but as it had been referred to the Committee to Audit and Control the Contingent Expenses of the Senate I thought there must be some expense attached.

Mr. CHILTON. None whatever, as reported. The part which provided for an expenditure of money has been stricken out by the committee.

The VICE PRESIDENT. The amendments of the committee will be stated.

The amendments of the Committee to Audit and Control the Contingent Expenses of the Senate were, on page 3, line 1, after the words "*Resolved*, That," to strike out:

A committee of five Members of the Senate is hereby created, its members to be appointed by the President of the Senate, for the purpose and with direction.

And to insert:

The Interstate Commerce Commission be requested.

On page 1, line 15, to strike out "committee" and insert "commission."

On page 4, line 11, to strike out "committee" and insert "commission."

In line 19, after the word "information," to strike out "such committee" and insert "the commission."

After line 23, to strike out the words:

Said committee is authorized to sit in the recess of the Senate, and at any point in the United States, to employ such counsel, clerks, and stenographers as it may find necessary, to summon and swear witnesses, send for persons and papers, and to do any other thing necessary to the success of the investigation committed to it.

On page 5, line 4, to strike out "committee" and insert "commission."

In line 6, after the word "completed," to strike out the remainder of the resolution, in the following words:

And shall make reports from time to time as required by the Senate. All expenses incurred by said committee hereunder shall be paid out of the contingent fund of the Senate.

So as to make the resolution read:

Resolved, That the Interstate Commerce Commission be requested to make thorough investigation of the conditions prevailing and that have prevailed in the States of New York, Pennsylvania, West Virginia, and Ohio, or elsewhere, affecting the production, transportation, and marketing of crude petroleum, with especial reference to the manner in which the market for same has been created, maintained, and controlled, and by whom, and the effect of such market and the maintenance and con-

trol thereof upon the inducement of capital to seek investment in the oil business, and especially in the development of new fields.

Said commission shall also ascertain what connection or relation of any kind has existed or now exists between or among any two or more of the pipe-line companies which have been or are now transporting crude oil within said fields, together with what, if any, common ownership, interest, or control has at any time existed or now exists between such pipe lines or any of them, and the various agencies that have purchased crude oil in said States since 1890, and what disposition such agencies have made of the crude oil so purchased, and to whom it has been turned over for refining and manufacture, and under what conditions, with the object of ascertaining for the information of the Senate whether the charge is true that substantially the same interests have operated the pipe lines, made the market, bought the crude oil, refined it, and fixed the price of the refined products, and whether in such respect the laws of the United States have been violated.

Said commission shall also inquire into and ascertain if it is true that said pipe-line companies, or any of them, have recently stopped taking all or any part of the crude oil produced by independent producers into tanks to which such pipe-line companies have connected their pipe lines, and whether it is true that said purchasing agencies, or any of them, have recently stopped purchasing all or any part of the crude oil so produced by independent producers in said States, together with any information the commission may be able to obtain as to the reasons for such refusal to run and purchase oil, and what effect the same is having upon the oil industry, and especially properties already developed in the States named.

Said commission shall report to the Senate its findings, together with the evidence taken, when its work hereunder is completed.

The amendments were agreed to.

Mr. CHILTON. On behalf of the senior Senator from Oklahoma [Mr. GORE], I move, in line 7, on page 3, to insert "Oklahoma" after "West Virginia," so as to read:

In the States of New York, Pennsylvania, West Virginia, Oklahoma, and Ohio, or elsewhere.

The amendment was agreed to.

The resolution as amended was agreed to.

The VICE PRESIDENT. The committee recommends striking out the preamble. Without objection, the preamble will be stricken out.

Mr. GORE. I desire to call up Senate resolution 457, submitted by me on the 24th instant.

Mr. CULBERSON. I have no objection to considering the resolution at this time, but after it is disposed of I shall have to call for the regular order.

Mr. SMOOT. If the Senator from Texas wants to get consideration of the conference report directly, I think the best plan would be for him to call for the regular order at this time.

The VICE PRESIDENT. The resolution of the Senator from Oklahoma is not now in order, because it is a resolution coming over from a preceding day, and the morning business is not yet closed It will be handed down by the Chair when we reach that point.

Mr. GORE. I undertook to call it up at this time because really it is a companion resolution to the one just adopted.

The VICE PRESIDENT. The introduction of bills and joint resolutions is in order.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PITTMAN (for Mr. NEWLANDS):

A bill (S. 6537) granting a pension to Mabel De Chaine; to the Committee on Pensions.

By Mr. THORNTON:

A bill (S. 6538) for the relief of the heirs of Antoine Bayard (with accompanying papers); to the Committee on Military Affairs.

By Mr. TOWNSEND (for Mr. SHERMAN):

A bill (S. 6539) granting a pension to Cora Alward;

A bill (S. 6540) granting an increase of pension to Joseph Wardle;

A bill (S. 6541) granting an increase of pension to Alfred J. Adair;

A bill (S. 6542) granting an increase of pension to William Porter; and

A bill (S. 6543) granting an increase of pesion to Henry Clay; to the Committee on Pensions.

By Mr. STERLING:

A bill (S. 6544) granting a pension to Frank Sutterfield; and

A bill (S. 6545) granting an increase of pension to James W. Sargent (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Arizona:

A bill (S. 6546) granting an increase of pension to Hannah M. Bates (with accompanying papers); and

A bill (S. 6547) granting an increase of pension to John E. Penn; to the Committee on Pensions.

By Mr. OVERMAN:

A bill (S. 6548) for the relief of the estate of Addison G. Lee, deceased (with accompanying papers); to the Committee on Claims.

By Mr. LEE of Maryland:

A bill (S. 6549) for the relief of George Berry Dobyns; to the Committee on Naval Affairs.

By Mr. JOHNSON (for Mr. BURLEIGH):

A bill (S. 6550) granting an increase of pension to Joseph N. Stockford; to the Committee on Pensions.

By Mr. PERKINS:

A joint resolution (S. J. Res. 188) ceding to the State of California temporary jurisdiction over certain lands in the Presidio of San Francisco and Fort Mason (Cal.) Military Reservations; to the Committee on Military Affairs.

WITHDRAWAL OF PAPERS—JOHN J. BOESL.

On motion Mr. STERLING, it was

Ordered, That the papers accompanying S. 3467, granting a pension to John J. Boesl, Sixty-third Congress, first session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

THE STANDARD OIL CO.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day which will be read.

The Secretary read Senate resolution 457, submitted by Mr. GORE on the 24th instant, as follows:

Resolved, That the Federal Trade Commission be requested, as soon as organized, to investigate the following matters and report its findings to the Senate:

1. The relation now existing among the several branches or companies into which the Standard Oil Co. was resolved after its dissolution in pursuance of the decision of the Supreme Court.

2. The relation between the producing, purchasing, transporting, and refining agencies of the Standard Oil Co. or its branches and the methods and practices on the part of such agencies toward the independent producers, transporters, and refiners of oil.

3. The efforts of the Standard Oil Co. or the companies into which it was divided to control the price of crude oil and the price of its refined products, as well as the results of such efforts.

4. The capital and declared dividends of the Standard Oil Co. for three years prior to dissolution, and as to the capital and declared dividends of the several companies into which it was resolved since the date of its dissolution, together with a comparison of such earnings with the earnings of independent oil-refining companies.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

STANDARD BOX FOR APPLES.

The VICE PRESIDENT. The morning business is closed.

Mr. JONES. There has been a motion pending to reconsider the vote by which the bill (S. 4517) to establish a standard box for apples, and for other purposes, was passed. The bill was recalled from the House and the motion to reconsider has been pending for some time. I think it will take only a minute or two to dispose of it. I should like to have it disposed of.

The VICE PRESIDENT. The question is on the motion to reconsider the vote by which the Senate passed the bill.

Mr. OVERMAN. Who made the motion to reconsider?

Mr. JONES. The Senator from Minnesota [Mr. CLAPP], in order that he might offer a couple of amendments to the bill which the friends of the bill think would practically emasculate it. So I hope the motion to reconsider will be defeated.

The motion to reconsider was rejected.

The VICE PRESIDENT. The bill will be returned to the House of Representatives.

BOUNDARY LINE BETWEEN CONNECTICUT AND MASSACHUSETTS.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 3550) ratifying the establishment of the boundary line between the States of Connecticut and Massachusetts, which were to strike out all after the title down to the enacting clause and to strike out all after the enacting clause and insert:

That Congress hereby consents to the establishment of a boundary line between the States of Massachusetts and Connecticut, heretofore agreed upon by said States, which boundary line is shown by duplicate maps, one copy of which has been deposited with the secretary of state of Massachusetts and another copy in the library of the State of Connecticut, and which boundary line has been fixed and determined according to the terms of an act of the Legislature of the State of Connecticut entitled "An act establishing the boundary line between Connecticut and Massachusetts," approved June 6, 1913, which act has been sent to and received by the State of Massachusetts, and an act of the Legislature of the Commonwealth of Massachusetts entitled "An act to establish the boundary line between the Commonwealth of Massachusetts and the State of Connecticut," approved March 19, 1908, which act has been sent to and received by the State of Connecticut each of which acts contains a full description of said boundary line.

Mr. McLEAN. I ask immediate action on the amendments of the House, if there is no objection.

The VICE PRESIDENT. Are they satisfactory to the Senator from Connecticut?

Mr. McLEAN. The change made by the House, I understand, is merely to eliminate the preamble in accordance with the law. There is no change in the substance of the bill, and I certainly hope that the amendments will be concurred in.

The VICE PRESIDENT. The Senator from Connecticut moves that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

PROPOSED ANTITRUST LEGISLATION.

Mr. CULBERSON. I move that the Senate proceed to the consideration of the conference report on the disagreeing votes of the two Houses upon the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. POINDEXTER. Will the Senator from Texas withhold his motion for a minute until I ask consent to take up a brief matter—House joint resolution 241, for the appointment of four members of the Board of Managers of the National Home for Disabled Volunteer Soldiers? There is no quorum on that board and there are a great many important matters needing attention. I have a statement from one of the members of the board to that effect.

Mr. CULBERSON. I ask the Senator from Washington if the joint resolution will provoke discussion?

Mr. POINDEXTER. I think none at all. I can not imagine that there will be any objection to it.

Mr. CULBERSON. I will withhold the motion for the present.

Mr. JONES. I wish to call the attention of my colleague to the fact that the Senator from Ohio [Mr. BURTON] has objected to it heretofore, and he is not present this morning.

Mr. POINDEXTER. I did not know that. I did not know there had been any objection to it.

Mr. JONES. He objected to it a time or two.

Mr. POINDEXTER. If the Senator knows that to be the case, I will withdraw the application until the Senator from Ohio is here.

Mr. CULBERSON. I renew my motion.

The VICE PRESIDENT. The Senator from Texas moves that the Senate resume the consideration of the conference report on the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

The motion was agreed to.

Mr. REED obtained the floor.

Mr. LEWIS. Will the Senator from Missouri pardon me for one inquiry?

Mr. REED. I yield for that purpose.

Mr. LEWIS. May I ask the junior Senator from Michigan [Mr. TOWNSEND], who has charge of the bill providing for a retired list for volunteer soldiers, what is the disposition as to that bill? I understood it was to be resumed this morning.

Mr. TOWNSEND. The consideration of the bill was to have been resumed this morning if it could have been placed before the Senate. The Senator from Texas [Mr. CULBERSON] secured recognition to call up the conference report, and in order for me to get the bill up at this time it would be necessary for me to supplant the motion that has been made and carried. I realize that that would be difficult for me to do, because there are some Senators who profess to be friends of this measure, and I have no doubt they are, who have said they would not like to displace a conference report with it.

I have tried the best I could from the first to accommodate myself to Senators. I have not pressed the bill unduly. I tried on Saturday, when a Member of the Senate proclaimed that there was nothing for the Senate to do. I tried at that time to get it up, but the quorum was broken, and it was impossible.

Mr. LEWIS. May I understand——

Mr. BRYAN. Mr. President, I call for the regular order.

The VICE PRESIDENT. The Senator from Missouri is recognized.

Mr. TOWNSEND. I understood that the Senator from Missouri yielded to the Senator from Illinois.

Mr. LEWIS. I only desired to be assured——

Mr. REED. I yielded to the Senator from Illinois for the purpose of an inquiry.

Mr. LEWIS. I thank the Senator from Missouri. I was only attempting to ascertain in behalf of myself and others interested that the volunteer retirement bill would not come up to-day, or, if to-day, not until after the conference report was disposed of. Am I correct in that assumption?

Mr. TOWNSEND. I wish to say to the Senator that I shall take advantage of the first opportunity to get this bill up to-day or any other day. If I could arrange a day certain when it would come up I am sure the Senate would be accommodated. I should like to, but I feel certain I can not.

Mr. LEWIS. I appreciate the courtesy of the Senator from Missouri.

Mr. REED. Mr. President, this bill is entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes." I shall endeavor to show that, if it passes in its present form, the title ought to be amended to read:

"An apology to unlawful restraints and monopolies."

I may be pardoned for briefly stating my position on the various phases of this legislation.

ATTEMPTS TO RESTORE CRIMINAL PENALTIES AND OTHERWISE TO STRENGTHEN THE BILL.

As a member of the Judiciary Committee I insisted from the first on retaining all of the substantive provisions of the House bill except section 3. The section not being before the Senate, I need not further discuss it.

I voted for and insisted upon the retention of every criminal penalty.

When the committee struck out section 2, which sought to prohibit trusts and monopolies from crushing smaller competitors by temporarily cutting prices in the trade territory of a competitor, thus driving him into bankruptcy and out of business, I insisted upon its restoration.

When the committee struck out section 4, which prohibited the owner of an article from stipulating in the contract for lease or sale that the purchaser or lessee must buy his other supplies or goods from the seller or lessor, I contended for the restoration of the section. I renewed this contest upon the floor of the Senate, and when my efforts were defeated by a majority of one I brought forward the same question a second time. Again the Senate refused to restore the section, but the direct result of that contest was the introduction of a substitute section drawn by Senator WALSH. Indeed, the known fact that the Walsh substitute would be offered probably accounts for the majority of the Senate voting against the restoration of the section.

The Walsh substitute prohibited the class of contracts referred to, but limited the prohibition to articles covered by patents. This substitute was offered to meet the decision of the Supreme Court of the United States in the case of Henry against Dick, rendered March 11, 1912, which I had cited, and which clearly demonstrated that contracts of the character referred to had been held to be legal when they were made with reference to a patented article.

But the Walsh amendment did not contain any penal clause. Upon the floor of the Senate I offered an amendment making the practice referred to a misdemeanor, punishable by a fine of $5,000 and imprisonment for one year, or both, in the discretion of the court. The amendment was adopted.

When the committee struck out various other sections of the bill I protested against that action.

I supported the proposition to make the final judgment or decree of a court "heretofore or hereafter rendered" prima facie evidence in other proceedings.

I supported the proposition not only to prohibit corporations from owning stock of other corporations, if the Government could prove that such acquisition would lessen competition, but I opposed the insertion of the word "substantial," and sought to have such stock ownership absolutely prohibited.

I offered an amendment providing that no corporation other than common carriers having a capital stock and surplus in excess of $250,000,000 could engage in interstate commerce. The amendment was rejected.

I offered an amendment, which appears as section 25 of the bill as it passed the Senate, providing that whenever a corporation shall acquire or consolidate the ownership or control of the plant, franchises, or other properties of corporations, copartnerships, or individuals, so that it shall be adjudged to be a monopoly or combination in restraint of trade, the court rendering such judgment shall not only decree its dissolution but shall appoint receivers and wind up its affairs, and shall divide it so as to restore competition. This amendment was passed in the Senate and stricken out in conference.

I supported an amendment extending the statute of limitations in actions brought against trusts to six years. This amendment has been stricken out in conference.

I have supported every proposition contained in the House bill imposing criminal penalties for trust practices. I have done this because I have believed for years that men who engage in the business not of honest trade but of crushing and destroying business rivals, not of seeking to serve the public for an honest profit but of practicing extortion by the power of combination, should be classed as common criminals, and should be so treated.

I have been further impelled to this course by the fact that the Democratic platforms for years have loudly demanded the imposition of criminal penalties.

I have insisted that the jurisdiction to enforce the provisions of this supplemental trust legislation should not be taken from the courts, but that at least the courts should retain jurisdiction to enforce the provisions of the act, even though a concurrent jurisdiction might be vested in various boards and tribunals.

If my attempts have not been altogether or at all successful, I at least have the satisfaction of knowing that my course is fully justified by the platforms of the Democratic Party, by my own conscience, and, I believe, by the enlightened opinion of the people of my own State

Mr. President, I have said this much of a personal nature, because I want the Senate and so much of the country as is interested to know that the attitude I am assuming here to-day I have maintained from the first.

A Dough-Bullet Bill.

THE CONFERENCE REPORT STRIKES OUT ALL CRIMINAL PENALTIES FOR TRUST PRACTICES.

If the allies had undertaken to stop the German invasion with dough bullets, the soldiers of the Kaiser would have occupied Paris in 24 hours.

So far as its antitrust features are concerned, this is a dough-bullet bill. The powerful and intrenched monopolies can not be driven from their fortifications with that kind of ammunition. The task requires solid shot.

This measure has been loudly heralded as the Clayton antitrust bill It should be now known as the "conferees' capitulation bill." Presumably it was brought forward as the legislative crystallization of the years-old Democratic promise that the trusts should be exterminated root and branch. The people were led to believe that the Democratic Party, now in full possession of all branches of the Government, by this bill intended to make private monopoly, which has hitherto been characterized as "indefensible and intolerable," both unprofitable and dangerous.

In its inception this legislation was a challenge to the field of battle. In its finality it is a sort of Hague propaganda promulgated under white flags to the soothing melodies of "Peace on earth, good will toward the trusts."

The doctrine of extermination has given place to the policy of diplomatic negotiations to be conducted by various boards, with the express understanding that, whatever the result, no law violator is to be hurt, no trust magnate is to be sent to jail, no rude sheriff or marshal is to lay his callous fingers upon the perfumed collar of a captain of industry.

Mr. Rockefeller, like another Richard, can thus soliloquize:

> Now is the winter of our discontent
> Made glorious summer by these conferees,
> And all the clouds that loured upon our house
> In the deep bosom of the ocean buried.
> Now are our brows bound with victorious wreaths,
> Our bruised arms hung up for monuments,
> Our stern alarums changed to merry meetings,
> Our dreadful marches to delightful measures.
> Grim-visaged war hath smoothed his wrinkled front;
> And now, instead of hiding out in Europe
> To 'scape the fearful process of the courts,
> We caper nimbly in the stock exchange
> To the lascivious pleasing of the ticker.

THE SHERMAN ACT HIGHLY PENAL.

The Sherman Antitrust Act has been upon the books for 24 years. During all that time it has disturbed the dreams and troubled the waking hours of trust magnates.

With brutal frankness and shocking candor it declares that "every person who shall make any contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade, or who shall monopolize interstate trade or commerce, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, or imprisonment not exceeding one year, or by both." By positive command it directs the Department of Justice to enforce its drastic, harsh, and ungentle provisions.

We are now about to prescribe a new procedure which does not contain a single criminal penalty for trusts—not one.

The New Method of Dealing with Trusts.

COMMISSIONS SUBSTITUTED FOR COURTS—INVESTIGATIONS AND ORDERS FOR INDICTMENT AND IMPRISONMENT.

Previous to the enactment of this legislation there was but one road the officers of the law could travel in pursuit of a conspirator against commercial independence.

We have by this bill provided another legal highway, the great length and numerous meanderings and sinuosities of which eventually lead to certain hybrid tribunals called commissions, without power even to enter a final decree. They can neither levy a fine, enforce a mandate, nor send a single culprit to jail. They can not even tax the costs.

After time has for years run its weary course and the ingenuity of counsel has at last failed to furnish an excuse for misconduct or find escape in legal technicality, the worst fate the trust can suffer under this bill is that it may be directed to stop some particular practice, in which event the trust magnate's disappointment is palliated by the consoling reflection that he retains the loot, is in no danger of the jail, and is free to devise some new and equally safe plan of plunder.

Accordingly, having provided the two roads where there was but one, and thus afforded a sometimes reluctant Attorney General the choice of alternatives, it is easy to understand that the one just now created will be most generally employed.

We refuse to lay the knife to the root of the cancer. For the old surgery which cut out the diseased part we have adopted a system of painless poultices as undisturbing to the patient as absent treatment secretly administered.

I venture the prediction that the new procedure will be welcomed by the trusts, because it affords a means of avoiding prosecution in real courts where painful results may follow. Whenever a law violator shall hereafter feel himself in danger of a criminal prosecution, he naturally will rush to some one or the other of the commissions, procure the filing of a charge against him, and thereupon cry, "Sanctuary!"

How the Clayton Bill was Emasculated.

The genesis and progress of this legislation are alike interesting and instructive.

When the Clayton bill was first written it was a raging lion with a mouth full of teeth. It has degenerated to a tabby cat with soft gums, a plaintive mew, and an anemic appearance. It is a sort of legislative apology to the trusts, delivered hat in hand, and accompanied by assurances that no discourtesy is intended.

Before discussing the disintegration of the Clayton bill, I advance these observations:

If the Sherman Act was in itself sufficient to destroy monopoly and prevent restraint of trade, then it needs no change. Amendment of the trust laws can only be justified upon the theory that in some important respect the law has failed to protect against the trust practices under which the people have suffered. If, then, there is a class of evils employed by powerful combinations which oppress the people, which are contrary to sound public policy, and destructive of commercial liberty; if these devices are employed by those who are willing to sacrifice the general welfare for their private emolument and profit, such practices should be denounced by the law, and the perpetrators thereof punished as are other criminals.

If, however, the practices are of so innocent a character as to produce but trifling annoyance, it is a grave question whether legislation is either necessary or desirable.

It is not the business of Congress to undertake to accomplish the impossible task of eradicating every slight or trifling embarrassment. It is our duty to reach the great evils.

After 24 years of experience under the Sherman Antitrust Act it has been concluded that evils of a grave nature do exist which can not be effectively reached under it.

It is recognized that certain vicious practices are constantly employed, not only by existing monopolies, but by those who are engaged in creating monopoly.

These practices are all inherently unjust, oppressive, and wicked; they are perpetrated willfully, deliberately, and premeditatedly; they are not the result of accident, misunderstanding, or mistake; they are as coolly entered upon and cruelly executed as is the plan of a dynamiter who manufactures a bomb to destroy life and property.

There are four well-known devices, each of which has long been employed by the great combinations and trusts of the country to destroy competition. To eradicate these evils the House passed the Clayton bill. If the press is to be credited, so great was the confidence of the President in the learned chairman of the Judiciary Committee of the House, Mr. Clayton, that he was requested to remain at his post in Congress until the bill could be completed.

The result of his labors was an act defining, prohibiting, and penalizing four of the most oppressive practices of monopoly.

Section 2 prohibited price discriminations done for the purpose of destroying or wrongfully injuring the business of a competitor.

Section 4 denounced tying contracts in general. This is the device by which a manufacturer controlling a patented or staple article compels all who purchase or lease it to agree to purchase other goods or supplies from the seller, thus aiding him in restraining the trade of rivals and enabling him to create a monopoly.

Section 8 prohibited a corporation from owning the capital stock of another corporation where the effect would be to substantially limit or lessen competition.

It also prohibited holding companies where the effect of their stock holdings was to substantially lessen competition.

A violation of any of these sections was punishable by fine and imprisonment.

Section 12 broadly declared that whenever a corporation should violate any of the provisions of the antitrust laws the responsible directors and officers should be guilty of a misdemeanor.

It will be observed that these four sections—2, 4, 8, and 12—applied to trusts and monopolies. They were calculated to reach the principal devices employed by monopoly to crush rivals and despoil the public.

The criminal provisions have been stricken out as to sections 2, 4, and 8. Section 12 is emasculated, as I shall show.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. I do.

Mr. WALSH. I desire to interrupt the Senator here to say that I do not understand that any one of these sections applied to trusts and monopolies. I understand that the bill was not intended to reach the practices of trusts and monopolies. The members of the Judiciary Committee, at least, did not intend that it should. It was the common belief that the practices of actual trusts and monopolies are already amply taken care of by the law. It was intended to reach the practices that were not the practices of things that have developed into trusts and monopolies, but were practices of trade which, if persevered in and continued and developed, would eventually result in the creation of a monopoly or a trust.

It seems to me that the Senator will hardly be able to justify by the language of the bill the statement now made, that these sections were intended to suppress the practices of trusts and monopolies.

Mr. REED. Mr. President, as the bill came from the conference committee it undoubtedly was not intended to suppress the practices of trusts or monopolies; and, in my opinion, it is not calculated to suppress anything, except the rising indignation of the public, by for a time deceiving it into the belief that we are doing something we are not in fact doing.

Mr. WALSH. I referred to the bill as it was presented to us from the House, not to the conference report.

Mr. REED. I make the prediction, notwithstanding the apology of the Senator for the form of this bill——

Mr. WALSH. Mr. President, if the Senator will pardon me, the remark that the Senator from Montana is apologizing seems to me quite aside from the question. I am apologizing for nothing. I simply challenge the statement of the Senator, now made solemnly, that these four sections were intended, as the bill came from the House, to suppress the practices of trusts and monopolies. As the bill came from the House it was believed and understood that the practices of actual trusts and actual monopolies were already provided for by the law. It was to suppress those practices which, if persevered in and developed, would eventually result in the creation of a monopoly—trusts in their very incipiency, before they had reached the stage where the Sherman Act would take hold of them.

Mr. REED. Mr. President, every one of these practices results in a restraint of trade; but the restraint may, nevertheless, be hard to prove. Every one of them tends to monopoly, yet, again, that fact may in a particular case be difficult of legal demonstration. Until they have reached the point of restraint of trade no harm has been done. The purpose of this bill was something more than the Senator would have us believe. I propose to proceed to discuss it in my own way. A little later on I shall refer again to the plea in confession and avoidance which has just been entered.

It is now confessed, therefore, by one of the sponsors of this bill, that it is not intended to touch the trusts and monopolies. I say that the people of the United States have expected us "to touch trusts and monopolies," and I am glad to be met in the early part of this discussion with an admission that we have not laid so much as a finger upon them.

DEMOCRATIC PLATFORM VIOLATED.

I was remarking when I was interrupted that these four practices had been condemned by Democratic platforms. I shall undertake to show not only that they were condemned but that we specifically pledged the application of criminal penalties to them by our platforms. I might also say that Republican platforms have strongly tended in the same direction. The only platform I know of that has ever proposed to treat these concerns in any other way than by criminal penalties and drastic legislation was the Bull Moose platform, which to-day might be read as a requiem at the dying bedside of that emaciated, discredited, and almost forgotten animal. Inspiring that Bull Moose platform, which is so faithfully followed by this bill, was the Hon. George W. Perkins, author of the Harvester Trust and various other combinations. I shall have more to say of that later.

The Democratic platform of 1912 read as follows:

A private monopoly is indefensible and intolerable. We therefore favor the vigorous enforcement of the criminal as well as the civil law against trusts and trust officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States.

We favor the prevention of holding companies, of interlocking directorates, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

We condemn the action of the Republican administration in compromising with the Standard Oil Co. and the Tobacco Trust, and its failure to invoke the criminal provisions of the antitrust law against the officers of those corporations after the court had declared that from the undisputed facts in the record they had violated the criminal provisions of the law.

In that section of the platform which begins by anathematizing the trusts and monopolies as indefensible and intolerable and which concludes with a condemnation of the administration of the Department of Justice for not enforcing criminal penalties—between that beginning and end the platform named the four practices specified in this bill, all of which now appear without a criminal penalty being provided.

We also added a further clause to that section of our platform. Let me read it:

We regret that the Sherman antitrust law has received a judicial construction depriving it of much of its efficacy, and we favor the enactment of legislation which will restore to the statute the strength of which it has been deprived by such interpretation.

The very purpose of this legislation was to redeem that platform pledge. It was to restore the strength of the statute and to make it more drastic and all-embracing. It was the purpose of this legislation to extend the criminal penalties to acts which standing by themselves, under the old law, might not be reached because the complainant might not be quite able to prove that trade had actually been restrained or the actual existence of a monopoly.

Mr. WALSH. Mr. President, will it trouble the Senator if I interrupt him there?

Mr. REED. Not at all.

Mr. WALSH. I simply wish to say that the Senator has now expressed quite accurately my idea of this legislation. It is to reach these practices in the case of corporations and others against whom you can not get proof enough to establish that they constitute a trust or monopoly. The Senator has now very accurately expressed my idea of the scope of this legislation.

Mr. REED. And it was also intended to make it so that when an institution like the Standard Oil Co., for the purpose of destroying a rival, cuts the price of oil below the point of the cost of production, by simply proving that fact, together with the fact that the cutting was purely local and not general, you would have made out a good case.

It was intended to reach the trust and deprive it of the power to exercise an enormous control through interlocking directorates.

It was intended to prevent it from owning a majority of the stock of a lot of other corporations, thus controlling a string of corporations and keeping them under one management.

It was intended to reach all of the practices I have named. It was for these purposes the bill was drawn and the criminal penalties attached. It was not intended, as the Senator would have us believe, to reach only those innocent and small institutions which may be doing something that really injures no one. Such institutions call for no legislation.

Criminal penalties were embraced in every one of the four sections of the Clayton bill which I have heretofore set out. As that provision came to us all of them contained this language:

Whoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both, in the discretion of the court.

The criminal penalty has in every instance been stricken from the antitrust sections of the bill.

The trusts of the country under this bill can not be fined, can not be imprisoned, can not be sent to jail, can not be punished in any way except by the command "please stop doing what you are now doing."

Mr. OVERMAN. Mr. President, I wish to understand the Senator's statement.

Mr. REED. Criminal penalties have been reserved in the bill, but they do not touch industrial monopoly.

Mr. OVERMAN. Does the Senator mean that a trust can not be punished criminally?

Mr. REED. Under this bill.

Mr. OVERMAN. Oh.

Mr. REED. That is what I said.

Mr. OVERMAN. What does this mean——

Mr. REED. I know what the Sherman Act means.

Mr. OVERMAN. Of course.

Mr. REED. I can almost repeat the Sherman Act verbatim from memory. If the Sherman Act is sufficient unto itself, why need we have even mentioned the word "trust" in this bill? I am complaining because you pretend to pass antitrust legislation, and from that pretended antitrust legislation you have taken the criminal penalties.

Mr. OVERMAN. If the Senator will pardon me, he was one of the many advocates of not touching the Sherman antitrust law.

Mr. REED. Certainly, I was opposed to doing anything that would impair or destroy that law.

Mr. OVERMAN. And he admits a trust can be punished and put in the penitentiary now. Then, what is the use for us to pass any legislation regarding the trust itself? This is intended to prevent the formation of a trust.

Mr. REED. Mr. President, Senators will have great difficulty in imposing upon anybody by attempting thus to becloud the issue. I have already said with great distinctness and clearness that the Sherman Antitrust Act does have criminal penalties. I have said with great distinctness and clearness that if it covers trust practices completely and absolutely we do not need any new legislation. I have said with equal distinctness that this new legislation was in its inception supposed to reach certain practices more easily than they could be reached under the old law, and that as to the new legislation you have taken out every criminal penalty applicable to the trust. You preserve them as to railroads and corporations selling to railroads, and the omission of criminal penalties for the trusts is somewhat curious when we find them preserved as to other corporations. Criminal penalties, I remark again, have been preserved in the bill, but in no case do they touch the industrial monopoly. From every section, denouncing the evil practices of these masters of the commercial world, has been drawn the last fang and claw which by any possibility might draw even a drop of blood from the veins of monopoly. The Clayton bill when it started upon its journey was a criminal statute. The remedies proposed were chiefly fine and imprisonment. As the measure comes to us from the conferees it is not, so far as the trusts are concerned, penal; it is merely prohibitive, and the prohibition is to be effectuated through various nonjudicial boards, without power themselves to prohibit or punish.

The bill has been otherwise emasculated. It has been rendered, in my opinion, so far as trust legislation is concerned, absolutely valueless. Let me trace these changes. And, Mr. President, in view of the fact that there are very few Senators in the Chamber, and as a bill of this kind does not appear sufficiently important to elicit their distinguished consideration, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Borah	Jones	Perkins	Smoot
Bristow	Kern	Pittman	Sterling
Bryan	Lea, Tenn.	Poindexter	Swanson
Chilton	Lee, Md.	Ransdell	Thornton
Crawford	Lewis	Reed	Townsend
Culberson	McCumber	Shafroth	Vardaman
Fletcher	Martine, N. J.	Sheppard	Walsh
Gore	Myers	Shields	Warren
Hitchcock	Nelson	Shively	West
Hughes	Overman	Smith, Ariz.	White
Johnson	Page	Smith, Ga.	

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent from the Senate on important business. He is paired on all votes with the junior Senator from Missouri [Mr. REED]. This announcement may stand for the day.

Mr. LEA of Tennessee. I wish to announce the necessary absence of the junior Senator from Kentucky [Mr. CAMDEN] on account of illness.

Mr. WARREN. I desire to announce the unavoidable absence of my colleague [Mr. CLARK]. He is paired with the senior Senator from Missouri [Mr. STONE].

Mr. SMOOT. I desire to announce the absence, by the leave of the Senate, of the senior Senator from New Hampshire [Mr GALLINGER]. He is paired with the junior Senator from New York [Mr. O'GORMAN].

I wish also to announce the necessary absence of my colleague [Mr. SUTHERLAND], who is paired with the senior Senator from Arkansas [Mr. CLARKE].

I wish also to state that the junior Senator from West Virginia [Mr. GOFF] is necessarily absent and that he is paired with the senior Senator from South Carolina [Mr. TILLMAN].

Mr. PAGE. I desire to announce that my colleague [Mr. DILLINGHAM] is necessarily absent. He is paired with the senior Senator from Maryland [Mr. SMITH]. I will let this announcement stand for the day.

Mr. SHAFROTH. I desire to announce the absence of my colleague [Mr. THOMAS], by leave of the Senate, and to state that he has a general pair with the senior Senator from New York [Mr. ROOT].

Mr. LEWIS. I desire to announce the absence of the Senator from Oregon [Mr. CHAMBERLAIN], who was suddenly called from the Chamber on an emergency matter.

The VICE PRESIDENT. Forty-three Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of absent Senators, and Mr. SMITH of South Carolina, Mr. THOMPSON, and Mr. WILLIAMS answered to their names when called.

Mr. STONE, Mr. ASHURST, and Mr. MCLEAN entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present. The Senator from Missouri will proceed.

AMENDMENTS FAVORABLE TO TRUSTS.

TRUSTS PROTECTED AGAINST USE OF DECREES AS EVIDENCE.

Mr. REED. Mr. President, the original Clayton bill contained certain other provisions of great force and virtue which have been practically destroyed in the conference or in the Senate, but especially in the conference.

Section 3—conference section 4—gave every person injured by anything forbidden in the antitrust laws the right to sue and recover threefold damages.

Section 4—conference section 5—as it left the Senate gave the Government or a private complainant the right to use in evidence any final judgment against a monopoly either *heretofore* or hereafter rendered.

Under these two sections private citizens or the Government could sue and avail themselves of every decision, decree, and finding rendered up to the date of trial and they could be introduced in evidence, and the work of traveling over the same ground at enormous labor and expense obviated.

The conferees have practically destroyed this valuable right by providing that judgments heretofore obtained can not be used in evidence. Not content with that emasculation, they have added this indefensible and detestable provision:

Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken: *Provided further*, That this section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity now pending in which the taking of testimony has been commenced but has not been concluded: *Provided*, That such judgments or decrees are rendered before any further testimony is taken.

When the conferees eliminated the word "heretofore" they cut off from use as evidence the findings and judgments rendered in the 82 great trust cases which have been heretofore decided against the trusts. These cases embrace such important suits as the Standard Oil case, American Tobacco case, Joint Traffic Association case, Northern Securities case, the Lumber Co. case, the Harvester Trust case, and many others, a list of which I herewith furnish, and which I desire to have printed as a part of my remarks.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The list referred to is as follows:

LIST OF CASES DECIDED UNDER THE SHERMAN ANTITRUST ACT IN WHICH THE GOVERNMENT WAS SUCCESSFUL.

United States *v.* Jellico Mountain Coal Co.
United States *v.* Workingmen's Amalgamated Council of New Orleans et al.
United States *v.* Elliott.
United States *v.* Joint Traffic Association.
United States *v.* Addyston Pipe & Steel Co.
United States *v.* Coal Dealers' Association.
United States *v.* Chesapeake & Ohio Fuel Co. et al.
United States *v.* Northern Securities Co. et al.
United States *v.* Swift & Co. et al.
United States *v.* The Federal Salt Co. et al.
United States *v.* The Federal Salt Co. (criminal case).
United States *v.* General Paper Co. et al.
United States *v.* MacAndrews & Forbes Co. et al.
United States *v.* Metropolitan Meat Co. et al.
United States *v.* Nome Retail Grocers' Association.
United States *v.* Otis Elevator Co. et al.

United States v. F. A Amsden Lumber Co. et al.
United States v. National Association of Retail Druggists.
United States v. Phoenix Wholesale Meat & Produce Co.
United States v. Standard Oil Co. of New Jersey et al.
United States v. Atlantic Investment Co. et al.
United States v. American Seating Co. (two cases).
United States v. The Reading Co. et al.
United States v. National Umbrella Frame Co. et al.
United States v. American Tobacco Co. et al.
United States v. Charles L. Simmons et al.
United States v. Union Pacific Railroad Co. et al.
United States v. E. J. Ray et al. (two cases).
United States v. John H. Parks et al.
United States v. Albia Box & Paper Co. et al.
United States v. John S. Steers et al.
United States v. Imperial Window Glass Co. et al.
United States v. Missouri Pacific Railroad Co. and 24 other railroads.
United States v. Southern Wholesale Grocers' Association.
United States v. Great Lakes Towing Co. et al.
United States v. Frank Hayne, James A. Patten et al.
United States v. Standard Sanitary Manufacturing Co. et al. (two cases).
United States v. General Electric Co. et al.
United States v. William P. Palmer et al. (five cases).
United States v. F. W. Roebling et al.
United States v. Phillip H. W Smith et al.
United States v. Frank N. Philips et al.
United States v. E. E. Jackson, jr., et al.
United States v. Lake Shore & Michigan Southern R. R. et al.
United States v. Standard Wood Co. et al.
United States v. Hunter Milling Co., Blackwell Milling & Elevator Co., and Frank Foltz.
United States v. A. Haines et al. (two cases).
United States v. Pacific Coast Plumbing Supply Association et al.
United States v. New Departure Manufacturing Co. et al.
United States v. Aluminum Co. of America.
United States v. Central West Publishing Co. et al.
United States v. Consolidated Rendering Co. (two cases).
United States v. Philadelphia Jobbing Confectioners' Association.
United States v. Page et al.
United States v. Krentler Arnold Hinge Last Co. et al.
United States v. The Southern Wholesale Grocers' Association et al.
United States v. International Brotherhood of Electrical Workers' Local Unions Nos. 9 and 134 et al.
United States v. The Burroughs Adding Machine Co. et al.
United States v. American Coal Products Co. et al.
United States v. The New Departure Manufacturing Co. et al.
United States v. Thompson et al.
United States v. International Harvester Co. of America.
The Eastern States Lumber Dealers' Association case.
The Bituminous Coal case.
The Alaska Transportation cases.
The Southern Wholesale Grocers' Association case.
The National Wholesale Jewelers' Association case.
The Thread case.
The American Telephone & Telegraph Co. case.

Mr. REED. Briefly and broadly speaking, the above cases embrace the entire field of trust litigation; they cover the practices and relate to the conduct of the principal trusts of the United States. These trusts are still in existence. They are still following the very practices denounced by this bill, many of them now liable to the private citizen and to the Government for infractions of the law; and yet, after the Government has gone to the expense in all these 82 cases of collecting the evidence, of proving a case, and of obtaining judgment, the conferees provide that the evidence, judgments, and records can not be used against any one of the already convicted criminals.

Why is that restriction put into this bill? Why did the conferees thus destroy the vitality of the bill? Why so tender to the convicted Standard Oil Co.? Why should we now deny to a citizen or to a State having further litigation with that company the right to use the record already made? Why should a State or a citizen, finding itself or himself oppressed by that great monster of the commercial world, be forced again to gather the testimony now on file? Why compel future litigants to do again the work performed by my State? Missouri sent its attorney general to the city of New York, there to be met by the refusal of the officers of the Standard Oil Co. to testify. He was compelled to go into court and obtain an order for the arrest of the recalcitrants, to spend eight or nine months of time in dragging from their reluctant lips and from their musty files evidence of their iniquity. Why should this evidence not be used by other litigants? Why should the Standard Oil Co. be thus favored by the conferees?

Mr. President, I raise the question of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Borah	Lee, Md.	Ransdell	Swanson
Bristow	Lewis	Reed	Thompson
Colt	McCumber	Shafroth	Thornton
Culberson	Martine, N. J.	Sheppard	Townsend
Gore	Nelson	Shields	Vardaman
Hitchcock	Overman	Shively	Walsh
Jones	Page	Smith, Ariz.	Warren
Kern	Pittman	Smith, Ga.	West
Lea, Tenn.	Poindexter	Smoot	Williams

The VICE PRESIDENT. Thirty-six Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of the absentees.

The Secretary called the names of the absent Senators, and Mr. ASHURST, Mr. HUGHES, Mr. JOHNSON, and Mr. STERLING responded to their names when called.

Mr. WHITE, Mr. FLETCHER, Mr. POMERENE, Mr. BRYAN, and Mr. SIMMONS entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-five Senators have answered to the roll call. There is not a quorum present.

Mr. VARDAMAN. Mr. President, Senators evidently are engaged in something else this morning, and in recognition of that fact I move that the Senate adjourn.

The VICE PRESIDENT. The question is on the motion of the Senator from Mississippi.

Mr. SMOOT. I ask for the yeas and nays.

The VICE PRESIDENT. Is the request for the yeas and nays seconded? [A pause.] Not one-fifth of the Senators present have seconded the request for the yeas and nays. The question is on the motion of the Senator from Mississippi that the Senate adjourn. [Putting the question.] The Chair is unable to determine. Those in favor of the motion to adjourn will rise. [A pause.] Those opposed will rise. [A pause.] It is quite evident the motion is lost.

Mr. CULBERSON. I call for the regular order, Mr. President.

The VICE PRESIDENT. The Chair does not know what the regular order is.

Mr. CULBERSON. There is a standing order, as I understand, that the Sergeant at Arms be directed to request the attendance of absent Senators.

The VICE PRESIDENT. There can not be a standing order to that effect.

Mr. CULBERSON. It has been frequently understood heretofore that there was such an order. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will request the attendance of absent Senators.

Mr. CHILTON, Mr. CLAPP, Mr. LANE, and Mr. STONE entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present.

Mr. REED. Mr. President, why should not this Government or any State of the Union or any private citizen, having been wronged by the Harvester Trust, and required to prove the fact that a trust exists, be allowed to lay down in court the transcript of the evidence secured by months of labor and toil, together with the decree of the court, against that company? Why should not the dealer in agricultural implements in the State of New Jersey or in the State of Arizona or in any other State, when he finds that the Harvester Trust has by some of its practices injured him in his business, be allowed in his suit for damages to lay down the record and decree in order to make his case, so far as the facts covered by the decree are pertinent? Why should he, having been injured but a few hundred or thousand dollars, be obliged to spend tens of thousands of dollars in traveling over a road that has already been painfully pursued by the Government? Why should he be obliged to take depositions all over the United States, to chase down the reluctant witnesses, and finally to bring into court the identical evidence which has already been gathered by the Government and solemnly preserved of record? What tender sentiment for the Harvester Trust inspired the conferees to deprive the people of the United States of that privilege which was written into this bill when it left the Senate?

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. CLAPP in the chair). Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. I do.

Mr. BORAH. Has the entire section with reference to this matter been cut out, or has it simply been modified?

Mr. REED. It has been modified by striking out the word "heretofore." As the section read, it provided that a decision heretofore or hereafter rendered could be used in evidence. The conferees struck out the word "heretofore," and then—as I stated while my friend the Senator, I think, was temporarily absent from the Chamber—they added a clause cutting out substantially all of the pending cases. When they took out the word "heretofore" they cut off as evidence the 82 great trust decisions already rendered. When they added the proviso to which I shall presently call attention they substantially cut out all of the 46 cases now pending.

That provision is as follows:

Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken—

That clearly relates to the future and covers every case that may ever be brought where there is a consent judgment—

Provided further, That this section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity now pending in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

But I return to my theme, if the Senator will pardon me, and shall come again to this particular phase of it.

Why should a tobacco dealer in any State of the Union who believes he has been robbed and despoiled by the practices of the Tobacco Trust, and who desires to bring a suit for treble damages, be compelled to travel up and down the earth to produce the same witnesses and bring forward the identical evidence that has already been gathered by the Government, preserved in bills of exception, approved by the final decision of the Supreme Court of the United States, and solemnly crystallized into a decree by that great court? Why this tenderness for the Tobacco Trust? Why deal so gently and so kindly with these concerns that have ridden roughshod over the law; that have defied the courts for an entire lifetime? By what process of reasoning do the conferees justify their act in eliminating from evidentiary value the decisions already rendered?

Of course their action will be very pleasantly received in the office of every trust attorney in the United States. With this section in the bill as it passed from the Senate every man desiring to sue any one of the 82 concerns that have been convicted would have at hand the evidence that would make out the main body of his case and would be put to no greater exertion than is necessary simply to prove the damage he has suffered. The fact that the concern is a monopoly, the fact that it is engaged in a conspiracy against trade, the fact that it exists for the purpose of destroying competition, the fact that it has an enormous capital, vast resources, an army of agents—all of these things will be at hand; and he can lay down the decree in a court where his case is on trial and thus will have made out the hardest part of his case. But the conferees have relieved the tobacco company of that danger.

Mr. President, if the Government of the United States has a further controversy with the institutions concerned in and a part of the Joint Traffic Association, which was convicted in a suit brought on January 8, 1896, why should it be compelled again to find and introduce the same evidence which it has already once introduced?

Why should any city, town, or village desiring to purchase cast-iron pipe through which to conduct water to its inhabitants, upon discovering that the Cast-Iron Pipe Trust has a monopoly in that section of the country, and is engaged in charging extortionate prices, be compelled to go back and prove ab initio that that concern is a trust, to bring forward evidence as to the kind and character of organizations under which it operates, and to produce witnesses to swear to its various methods of procedure? Why should this be necessary, when in the case of the United States against the Addyston Pipe & Steel Co. all that evidence was accumulated, carefully sifted by the trial court, scrutinized and analyzed by the appellate courts, and finally its reception approved by the Supreme Court of the United States?

Of course the manager of that trust is delighted when he reads this conference report. He knows now that if anybody sues him that individual must spend thousands and perhaps tens of thousands of dollars again gathering the evidence, plodding wearily over the land, hunting for witnesses who are skilled in dogging subpœnas.

Why should a man or a State seeking to reach the National Association of Retail Druggists be compelled to produce anew the same evidence the Government has once gathered—evidence taken with the attorneys of that concern in court, evidence taken when it was given the full and complete right to defend itself?

Why should a citizen now being oppressed be forced to go out and get that same evidence? Of course the Retail Druggists' Association is delighted on this balmy autumn afternoon to know that the danger has been removed by 8 or 10 men sitting in conference.

Why should some shipper, finding that the old Reading outrage is still being perpetrated and desiring relief, be compelled to tread the wine press alone, although the vintage has already been trampled by the Government and a decision upon the law and facts rendered?

To compel the private citizen to collect this evidence again is to deny him justice and to permit the monopoly already convicted to go untouched by the lash of the law. Why this tenderness for this particular trust?

If the Union Pacific Railroad Co. were again to get into litigation with the Government, involving a question of combination, why should not the existing decree, so far as it is pertinent, and the evidence which has been collected be utilized again by the Government?

If Mr. Frank Hayne and Mr. James N. Patten were again to undertake to run a corner in cotton, why should not the evidence already taken in their cases, if pertinent to the issues, be available?

When the United States tried and convicted the Standard Sanitary Manufacturing Co. and had it fined $51,000 because it was a criminal, why should we be so gentle and tender with that criminal, if it again violates the law, as to deny the Government the right to use the evidence heretofore taken, if pertinent to the case?

The Government had a long battle with the General Electric Co. It made its case so firm that the company knew there was no possibility of escape, and so it consented to a decree. Of course that decree was not entered by the consent of an innocent concern. It was entered because guilt was so overwhelming and the evidence so conclusive that there was no escape. The lawyers had looked for every loophole, they had seized upon every technicality, had examined every avenue of escape, and seeing none, this beneficent institution consented to a decree. Now, because of the conference amendment, a citizen wronged by the practices the Government inveighed against in its petition can not use this solemn admission of guilt, lest the tender sensibilities of the confessed criminal shall be wounded. The institution ought to banquet those who are so kind to it.

There were some enterprising gentlemen under the name of W. P. Palmer et al. who entered into a combination under the title of the Weather Proof & Magnet Wire Association. They were violating the law. Of course they knew they were violating the law. They were indicted in some seven cases. Sometimes there were 33, sometimes 38, sometimes 17, sometimes 15, sometimes 14, and sometimes 10 defendants. They contended until contention was not only useless but dangerous, and then 36 defendants entered pleas of nolo contendere, and were fined $128,700. Now, a citizen wronged by this combination, robbed by these criminals, can not under this report of the conferees, if it becomes a law, introduce in evidence the record showing their plea of guilty.

Mr. President, I might continue to read case after case until I had read the eighty-six, and I could continue to iterate and reiterate what I have now said with reference to certain of the cases and make it applicable to all.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. I do.

Mr. WALSH. Let me inquire of the Senator if he understands the purport of the bill as it is recommended by the conference committee to reach the case of a judgment entered on a plea of guilty.

Mr. REED. I do; a judgment by consent, in my opinion, covers a judgment entered upon a plea of nolo contendere.

Mr. WALSH. Now——

Mr. REED. If the Senator will pardon me, whether it is so covered or not all the old judgments are cut out under that clause of the bill which excepts all judgments heretofore rendered.

Mr. WALSH. I was not referring to that.

Mr. REED. I think it would be cut out now under the language of the bill even after judgment.

Mr. WALSH. That is what I wanted to inquire of the Senator. He thinks that the term "consent judgment" would reach to a judgment entered on a plea of guilty?

Mr. REED. I think it would. It is a judgment nolo contendere. It is really a judgment by consent.

Mr. WALSH. I would scarcely give that significance to the language.

Mr. REED. The language is this:

Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken.

Of course back of that lies the other provision, that past judgments are excepted.

Provided further, That this section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity now pending, in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

It is my opinion, from that language, that the deduction must be drawn that the exception applies to criminal as well as civil consents. The only way you can consent in a criminal case is by an absolute plea of guilty or the plea nolo contendere.

Mr. WALSH. Of course I understand that all past judgments are excluded, likewise judgments now entered in cases

pending by consent as well as past judgments by consent, but I scarcely think the Senator will care to say that judgments hereafter entered upon a plea of guilty would fall under the discrimination of consent judgments or decrees, because I take it that no criminal would ever consent that a judgment be entered against him when he pleads guilty. The judgment goes as a matter of course against him. If the Senator will pardon me——

Mr. REED. May I suggest to the Senator that without a statute expressly giving the right to use a decree the decree can not be used. So silence in the statute is deadly unless the observation I am now about to make is correct. But I will make that when the Senator has concluded his interruption.

Mr. WALSH. I have nothing further to say, except that the Senator will remember this was the subject of rather earnest discussion when the bill was before the Senate, and I think the Senator will recall that I took the position—and I encountered the opposition of the Senator—that the judgment should be made not only prima facie but conclusive in an action subsequently brought. If it be made prima facie, I see no reason why it should not be applicable to past decrees, but I am concerned now with reference to the meaning of the thing in the future. I am not able to agree with the Senator that in the future the judgment entered upon a plea of guilty in a criminal action would not be available under the proposed statute.

Mr. REED. Before the Senator takes his seat, since he has stated that he desired in the committee to have these judgments made conclusive——

Mr. WALSH. And on the floor as well as in the committee.

Mr. REED. And also on the floor, and that then I took the position that they should be made only prima facie, the Senator ought to say, in fairness to me, that I stated all along that if they could be made conclusive without impinging upon the Constitution and without destroying the validity of the law, I desired to have them made conclusive; but I doubted, and so the Attorney General's office doubted, the ability to make them conclusive; and lest we might destroy the law by going too far, and because I thought that if they were made prima facie they would be almost as valuable as if made conclusive, I took the position in favor of prima facie.

Mr. WALSH. Of course I am very glad to say that was the Senator's position and as well the position of all the members of the Judiciary Committee who objected to making the decree conclusive. My own judgment about the matter is that it is a right, as I said in the course of the debate on the floor, of very little value when it is made only prima facie evidence.

Mr. REED. I do not agree with the Senator on that. I believe if the judgment is made evidentiary and is sufficient to make out a prima facie case the jury will take care of the rest of the job.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. I do.

Mr. BORAH. I want to see if we agree on what this section actually accomplishes in express terms. Section 5 as it now is says:

That a final judgment or decree hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party.

That general clause limits all these judgments to the judgments which are hereafter taken. That is clear enough. Then it says:

Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken.

It cuts out all judgments that are rendered and all judgments entered by consent or decree entered before testimony has been taken.

Provided further, That this section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity, now pending, in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

That last proposition is a very peculiar provision and would seem to have been made to fit a particular case; that is, a case that is now pending in which the testimony is closed. There seems to be a case in existence that would just fit in there exactly.

Mr. LEWIS. In this connection——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Illinois?

Mr. REED. I do.

Mr. LEWIS. May I ask the Senator from Idaho does he mean to give us the information that from his viewpoint the statute prohibits all future judgments? The Senator used the words "future judgments." Does the Senator think the provision prohibits the use of any future judgments as prima facie evidence in civil proceedings?

Mr. BORAH. Oh, no. Did I say "future judgments"?

Mr. LEWIS. The Senator said so. I thought it must have been an error, or I had read the statute wrong.

Mr. BORAH. It was an error. I am obliged to the Senator. I said that all judgments heretofore rendered were cut out by the general clause to begin with. Then it says:

That this section shall not apply to consent judgments or decrees entered before any testimony has been taken.

That would include future judgments, that particular class, would it not?

Provided further, That this section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity, now pending, in which the taking of testimony has been commenced but has not been concluded—

That would cover future judgments as to that particular class. Of course the future judgments which are entered, however, are limited to a particular class of judgments.

Mr. OVERMAN. That only applies to suits that have been brought. It will not apply to suits hereafter brought.

Mr. LEWIS. I will say, answering the Senator from Idaho, if I may be pardoned by the Senator from Missouri, granting his viewpoint, if I am in error that it may be corrected, I assume that the provisions had been put in with a view to facilitating the Government to carry out consent matters which had been entered into in the form of settlement in equity proceedings wherein the defendant had possibly come into court and agreed upon a decree and thus relieved the Government of the necessity of taking evidence and the great expense incident thereto. I had in mind that possibly the New York, New Haven & Hartford Railroad litigation, which is now under settlement, was one of the things in consideration, and that if the provision to which the Senator from Missouri alludes had been left as it originally was the proceedings would have probably fallen, as the defendants would not wish to consent to a peaceable settlement with the Government when it was to act as a basis of private lawsuits for private individuals upon which to collect damages; but that hereafter having knowledge that such was not the basis of future civil proceedings it would then consent to a peaceful settlement with a full knowledge of the consequence.

I have an idea the object was to exclude those particular negotiations which are now on foot and which were undertaken before this provision was framed and in order to facilitate rather than to retard them. If I am in error as to that, and the Senator from Idaho and the Senator from Missouri think I am, I should like to be corrected. I merely offered that as my reason for thinking that was the motive for the exception.

Mr. BORAH. Of course I would not assume that the Senator from Illinois is in error as to his understanding of the provision, but I call the Senator's attention to this provision:

That this section shall not apply to consent judgments or decrees entered before any testimony has been taken.

That would cover any judgment of that kind which is entered under those circumstances in suits brought in the future, would it not?

Mr. LEWIS. I am intruding on the time of the Senator from Missouri.

Mr. REED. I am glad to accommodate.

Mr. LEWIS. I dare say that provision has in contemplation the encouragement of the defendants coming into court and confessing their violation of law wherever found, where there had not been a deliberate or criminal intent to allow them to escape the consequences by an honest confession and future avoidance, without penalizing them by this other section, which will enable persons to sue them in damages, but to enable persons to sue them in damages wherever they had held an attitude of belligerency to the Government and exposed the Government to the necessity of large costs in undertaking through the court to escape. I assume that that must be the reason.

Mr. REED. Let us assume that is the reason, and let us analyze it for a moment. In the first place, the Government ought not to desire that any citizen, individual or corporate, should ever come into court and confess to a violation of law unless the law has been violated. Nobody ought to hold out an inducement of any kind to seduce an unwary trust into a confession of guilt if it be not guilty. On the other hand, if it be guilty, will the Senator from Illinois tell me why it should not respond in damages, as the law says it should? Why, sir, if a trust be guilty of a restraint of trade, that is not enough to give me the right to recover damages against it; I must, in addition to showing that it has restrained trade, show that it

has thrust its hand into my pocket and taken my money. If it has done that, why should it not respond to me in damages? Why should the Government deprive me of the evidence incident to a confession of guilt?

Mr. OVERMAN. There is no question about responding in damages if guilty. It is only a question as to the introduction of testimony.

Mr. REED. Ah, but that is the whole question we are debating.

Mr. OVERMAN. No; it is not the question. They can bring suit just like they always could.

Mr. REED. Certainly. We propose by this section to extend the law so that if a citizen be wronged or the Government be again wronged the evidence once taken in a case may be used in subsequent litigation. It is now admitted that that is the proper theory upon which to proceed.

Mr. OVERMAN rose.

Mr. REED. Wait just a moment and then I will yield further. We are discussing this particular phase of the question: Shall the citizen or the Government be allowed to use a confession of guilt made in one suit in another suit and thus avoid the necessity of proving the case anew? Now, mark you, that does not make out a complete case for the citizen; he can not recover a penny unless he has been damaged and proves his damages.

Mr. OVERMAN. He ought not to.

Mr. REED. He should not recover damages, and he can not under any phase of this bill as it was originally drawn, as it left the Senate, or in any other phase unless he proves his damage. But he can be relieved of searching for evidence of the wrongful acts of a trust if they have already been proven or confessed.

Mr. OVERMAN. The reason why I rose was to ask a question. I understood the Senator to say that the Government was depriving him of the right to bring suit for damages.

Mr. REED. Oh, no; I said this bill as amended deprives him of the right to use a confession of guilt as evidence.

Mr. OVERMAN. Let us understand that. That is not true at all.

Mr. REED. It deprives him of the benefit of the evidence.

Mr. OVERMAN. Of making it prima facie evidence.

Mr. REED. Yes.

Mr. OVERMAN. And it ought to.

Mr. REED. And when the Government does deprive the ordinary citizen of the right to use that evidence it has substantially deprived him of the right to recover, and for the reason following: In order to prove the combination and the conspiracy upon which his suit for damages must be bottomed it is necessary to take evidence which is so difficult to obtain that it is well-nigh impossible for a private citizen to secure it. So when you deny him the evidence you practically deny him his remedy, and it is for that reason——

Mr. OVERMAN. Will the Senator contend that there is anything in this bill that deprives any citizen of the United States of any right he has now?

Mr. REED. I am not talking about the deprivation of rights that now exist. We are sitting here in Congress supposed to be passing a remedial statute. We are supposed to be doing something now in response to the demands of a certain document I am about to read. We are supposed to be here for the purpose of affording the citizens of this country rights that they do not now possess. But when we consider what has been done by the conferees to this section we find that they have cut out its vitals.

Mr. OVERMAN. I want to say to the Senator it is true, and he knows it is true, that we have not deprived a citizen of a solitary shade or shadow of a single right he has now in the courts.

Mr. REED. You have not done it because you could not do it, but I am going to show in a minute that you have tried to do it.

Mr. OVERMAN. The Senator can not show it.

EVEN THE RECORD SHOWING A PLEA OF GUILTY CAN NOT BE SHOWN IN EVIDENCE.

Mr. REED. I will stop and show it now. When a criminal stands in a court of justice and pleads guilty, that plea of guilty can be introduced in evidence against him in any case where his guilt is in question—not the judgment, perhaps, but the fact that he pleaded guilty can be shown. Let me illustrate. A man murders the husband of a woman; he pleads guilty to murder. There is a statute in the State giving the widow the right to recover damages in case her husband has been wrongfully killed. She can put a witness on the stand and prove that the defendant stood up in court and said "I am guilty"; she can introduce the indictment and the fact. You have tried to cut that kind of evidence out.

Let me illustrate further: A man defrauds another of $10,000; he is indicted for it; he pleads guilty in court——

Mr. OVERMAN. The Senator does not contend that that applies in this case?

Mr. REED. Just a moment until I finish my sentence. The injured party thereupon sues him to recover a civil judgment for $10,000. Under the law now he can introduce the indictment and the fact that the man stood in court and pleaded guilty to the indictment.

Mr. OVERMAN. Does the Senator from Missouri contend that there is anything in this bill which applies to suits between individuals of the kind of which he is speaking?

Mr. REED. Why, certainly. This applies to that class of evidence, of course; it is limited to trust cases; there can not be any doubt about that; and you have tried to cut out the pleas of guilty in trust cases. You have got no more right to destroy the evidentiary value of a plea of guilty in a trust case than in the case of an embezzler or a murderer. The evidence in either case can be used without any statute. Here is what you said:

That this section shall not apply to consent judgments or decrees entered before any testimony has been taken.

In other words, you can not introduce the record if there has been a plea of guilty. What is a consent judgment?

Mr. OVERMAN. That is under the antitrust laws.

Mr. REED. Certainly that is under the antitrust laws. I go further and say that in a civil suit where there has been a consent judgment the decree can be introduced without any statute. You can not generally introduce the evidence that has been preserved in the bill of exceptions, but you can introduce in evidence the plea or the consent to the entry of judgment. This is a right independent of any statute. This right you have sought to take away in trust suits.

There is a reason why a consent judgment or plea of guilty should be received that does not apply to an ordinary judgment. What is it? An ordinary judgment is rendered generally upon a disputed set of facts. The questions are in controversy. The jury may make a mistake; the judge may commit an error; but, sir, when a man goes into court and consents to a decree, it is his solemn admission of record, it imports verity; there can be no mistake. When a man consents to a decree he comes in admitting the charge. There is no mistake of a jury; no error of law or of fact on the part of the court in such a case. The man sitting in judgment upon his own acts confesses his own guilt.

By this bill the conferees say that plea should not be introduced in evidence against him. Absurdity could go no further than that; tenderness for trusts could lead us to no greater extreme. There is not an attorney for the Steel Trust in the United States, big attorney or little, who would have had the temerity to have asked that the bill be thus amended. No final judgment heretofore rendered can be introduced in evidence; and for all practical purposes neither the evidence nor judgments in any case now pending can be used in other cases. Even when the parties have said, "Here we are; we are guilty; we admit it; we have been violating the law; we did it with our eyes open," we by this bill propose to say to the injured and innocent party who has a suit against the culprit, "You can not prove that fact in your suit where you are seeking to get back the money of which you were robbed by the scoundrel who has just admitted his guilt."

Oh, this is a great antitrust Congress! Compared with the Congress that put upon the statute books the Sherman Act, we appear as would a lot of wet nurses in comparison with soldiers on the field of battle, arms in hand. If we had the original Sherman Act before this Congress the "trust busters" of the present day and generation would shy like the country horse of 15 years ago did at the sight of an automobile. You would not find this Congress using this violent and offensive language of the Sherman Act:

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal.

Offer that to-day, and immediately speculation would begin. "What, every contract! Think how far-reaching that is; you will catch some innocent who has sinned through inadvertence. I pray you be not so harsh." What would this Congress do if asked to enact into law this fearful language which follows that which I have just read:

Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor.

"What! Take an unsuspecting merchant"—would say the latter-day legislator—"take an innocent merchant who has formed an innocent little combination to skin the public, ravish

him from the bosom of his family, tear him from the loving arms of his wife, and haul him away to jail with the cries of his children ringing in his ears—will you do such a wicked thing as that?" Such would be the arguments we would now hear.

Well, old John Sherman and the Republicans of that day did pass that law. Their "little fingers were bigger than our loins." Theirs was the spirit of the eagle, ours that of the barnyard fowl. "Be careful, do not let it be proven in evidence that a man has plead guilty to violating the Sherman law." So say the worthy conferees. Mr. President, the gorge rises as we contemplate that provision.

Let me read you a testimonial on this subject. I am careful to tell you it is a quotation, lest I should be adjudged guilty of using extreme language. It was the prophecy of this legislation itself, a different kind of prophecy, too, than we find in the statements of the Senator from Montana [Mr. WALSH], who says this bill was not to have anything to do with trusts:

I hope that we shall agree in giving private individuals who claim to have been injured by these processes the right to found their suits for redress upon the facts and judgments proved and entered in suits by the Government where the Government has upon its own initiative sued the combinations complained of and won its suit, and that the statute of limitations shall be suffered to run against such litigants only from the date of the conclusion of the Government's action. It is not fair that the private litigant should be obliged to set up and establish again the fact which the Government has proved. He can not afford—

Where now is my friend, the distinguished Senator from North Carolina [Mr. OVERMAN], who asked what rights we were depriving these private litigants of? Let him listen as I read further:

He has not the power to make use of such processes of inquiry as the Government has command of. Thus shall individual justice be done while the processes of business are rectified and squared with the general conscience.

As I read that splendid example of English you all know from its rhythmic sound and its terseness of expression that it came from the pen of Woodrow Wilson. Now, what say the conferees? "It is right to deprive the citizen of this evidence in all cases that have been tried. It is right to deprive the citizen of the evidence in all cases that are pending, or nearly all of them. It is right to deprive the citizen, not only now but in the future, of the right to use all consent decrees."

I ask Senators, some of whom have claimed such devoted adherence to the President, how many propose to square this abortive provision with the demand made by the President.

Mr. VARDAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Mississippi?

Mr. REED. Certainly.

Mr. VARDAMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Borah	Jones	Nelson	Smith, Md.
Bristow	Kern	Page	Smoot
Chamberlain	Lane	Perkins	Swanson
Chilton	Lea, Tenn.	Pomerene	Thornton
Clapp	Lewis	Reed	Vardaman
Culberson	Martin, Va.	Robinson	Warren
Gore	Martine, N. J.	Sheppard	West
Hitchcock	Myers	Shields	Williams

The PRESIDING OFFICER. Thirty-two Senators have answered to their names. There is not a quorum present. The Secretary will call the roll of the absentees.

The Secretary called the names of the absent Senators, and Mr. BANKHEAD, Mr. POINDEXTER, Mr. RANSDELL, Mr. SHAFROTH, Mr. SMITH of South Carolina, Mr. WALSH, and Mr. WHITE responded to their names when called.

Mr. THOMPSON, Mr. STERLING, Mr. OVERMAN, Mr. BRYAN, Mr. LEE of Maryland, Mr. HUGHES, Mr. SHIVELY, Mr. SIMMONS, and Mr. OWEN entered the Chamber and answered to their names.

Mr. REED. Mr. President, what is the result of the call? Is there a quorum present?

The PRESIDING OFFICER. Forty-eight Senators have answered to the call. A quorum is not present.

Mr. CULBERSON. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on the motion of the Senator from Texas.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After a little delay Mr. STONE entered the Chamber and answered to his name.

The PRESIDING OFFICER. Forty-nine Senators have answered to the roll call. A quorum is present.

Mr. REED. Mr. President, in addition to the words of the President's message relating to this particular topic I desire to read a line or two further. Indeed, I desire to read all of that clause of his message and then ask Senators, some of whom have claimed such devoted adherence to the President, how they propose to square this abortive provision with the demand made by the President. It occupies an important part of the President's message. He said:

THE BILL VIOLATES THE PRESIDENT'S MESSAGE.

There is another matter in which imperative considerations of justice and fair play suggest thoughtful remedial action. Not only do many of the combinations effected or sought to be effected in the industrial world work an injustice upon the public in general; they also directly and seriously injure the individuals who are put out of business in one unfair way or another by the many dislodging and exterminating forces of combination.

Notice, the President was talking about trusts and monopolies already formed. Notice, he was discussing conditions now existent. He was not engaging in an expedition in the nebulous region of the future; neither was he dealing with the innocent practices of small concerns. The language of his message had to do with trusts and monopolies and with the practices by them indulged. He adds what I have already read, but I read it now that it may appear in the context.

I hope that we shall agree in giving private individuals who claim to have been injured by these processes the right to found their suits for redress upon the facts and judgments proved and entered in suits by the Government where the Government has upon its own initiative sued the combinations complained of and won its suit, and that the statute of limitations shall be suffered to run against such litigants only from the date of the conclusion of the Government's action. It is not fair that the private litigant should be obliged to set up and establish again the facts which the Government has proved. He can not afford, he has not the power, to make use of such processes of inquiry as the Government has command of. Thus shall individual justice be done while the processes of business are rectified and squared with the general conscience.

I have laid the case before you, no doubt as it lies in your own mind, as it lies in the thought of the country. What must every candid man say of the suggestions I have laid before you, of the plain obligations of which I have reminded you? That these are new things for which the country is not prepared? No; but that they are old things, now familiar, and must of course be undertaken if we are to square our laws with the thought and desire of the country. Until these things are done, conscientious business men the country over will be unsatisfied. They are in these things our mentors and colleagues. We are now about to write the additional articles of our constitution of peace, the peace that is honor and freedom and prosperity.

Thus said the President on the 20th day of January, 1914. He asked for laws applicable to the practices of trusts and combinations. He asked for relief in the name of oppressed and outraged business. He asked it in the name of the conscience of the country. Now come the conferees with soft and gloved hands, with tender and delicate words, proposing to cut off the business man of the country who has been wronged and injured from the right to use any of the decisions that have been heretofore rendered, and practically cutting him off from the benefit of the decisions in cases which are now pending.

Mr. President, there are now pending some 46 important cases. I have here a long list which I desire to have printed in the RECORD. A few of the cases in the list may have been decided since the document I am quoting from was prepared; but, whether decided or pending, they come within the purview of this exception.

The PRESIDING OFFICER (Mr. LEA of Tennessee in the chair). Without objection, the request of the Senator from Missouri is granted.

The matter referred to is as follows:

CASES PENDING UNDER THE SHERMAN ANTITRUST ACT.

United States v. Motion Pictures Patents Co.
United States v. Prince Line (Ltd.).
United States v. Keystone Watch Case Co.
United States v. United Shoe Machinery Co.
United States v. American Sugar Refining Co.
United States v. United States Steel Corporation.
United States v. Booth Fisheries Co.
United States v. Eastman Kodak Co.
Plumbing Supplies Case.
United States v. American Wringer Co.
United States v. Kellogg Toasted Corn Flake Co.
United States v. Quaker Oats Co.
United States v. American Can Co.
United States v. Metropolitan Tobacco Co.
United States v. Southern Pacific Railroad Co.
United States v. Reading Co.
United States v. National Wholesale Jewelers' Association et al.
United States v. Terminal Railroad Association of St. Louis et al.
United States v. Corn Products Refining Co. et al.
United States v. McCaskey Register Co. et al.
United States v. Cleveland Stone Co. et al.
United States v. Charles S. Mellen, Edson J. Chamberlin, and Alfred W. Smithers.
United States v. American-Asiatic Steamship Co. et al.
United States v. The North Pacific Wharves & Trading Co. et al.
United States v. United Shoe Machinery Co. (An equity case.)

United States v. National Cash Register Co. et al.
United States v. Colorado and Wyoming Lumber Dealers' Association and the Lumber Secretaries' Bureau of Information.
United States v. S. W. Winslow et al.
United States v. Edward E. Hartwick et al.
United States v. William C. Geer, president Albia Box & Paper Co.
United States v. American Naval Stores Co.
United States v. Hamburg-Amerikanische Packetfahrt Actien Gesellschaft et al.
United States v. Isaac Whiting et al. (Two cases.)
United States v. John H. Patterson et al.
United States v. Associated Billposters and Distributors of the United States and Canada et al.
United States v. The Delaware, Lackawanna & Western Railroad Co. and the Delaware, Lackawanna & Western Coal Co.
United States v. White et al.
United States v. John P. White et al.
United States v. Board of Trade of the City of Chicago et al.
United States v. The Master Horseshoers' National Protective Association of America et al.
United States v. New York, New Haven & Hartford Railroad Co.

Mr. REED. Why, Mr. President, I can imagine the organizers of the Tobacco Trust, the organizers of the Sugar Trust, the organizers of the Standard Oil Co., the men who looted the New Haven Railroad—I can imagine these and a host of others not like three but like scores of witches around the caldron, which contains this so-called antitrust medicine, singing as sang the witches of Macbeth—the lines being brought down to date:

Let the caldron boil and bubble,
This bill won't give any trouble.

Mr. President, somebody has stated that these concerns might have pleaded guilty without knowing that the decree could afterward be used against them. What a harsh thing it would be, now, to use the decree! What an outrage is involved in the thought of using a decree rendered in a case which was resisted to the end! Again, what injury or wrong is done by using in future litigation the confession of guilt that a guilty man has made?

Mr. President, I pass from this particular section, which is section 6 of the House bill, section 4 of the Senate bill, and section 5 of the conferee's report.

COMMITTEE VIOLATES INSTRUCTIONS OF BOTH HOUSES OF CONGRESS.

I now desire to call the attention of the Senate to certain other emasculations this bill has suffered, especially to the action of the conferees with reference to section 3 of the conferees' report. I challenge any man to justify the action of the conferees upon this section. I affirm that the conferees have undertaken to repudiate the instructions given by both Houses of Congress; that they have assumed the right to make this section of the bill themselves to suit themselves. I declare that if this practice can be here justified we might as well abolish debates upon the floor and votes in the Chambers and simply appoint a conference committee to go out and make a bill to suit itself.

If I understand anything of the business of conferees, it is this: It is the duty of the Senate conferees to contend for that which the Senate has done; it is the duty of the House conferees to contend for that which the House has done; and when they find contention means disagreement, then one or the other of them will yield to the other or they will compromise the differences, each side yielding in part. But that they have the authority to strike out the instructions of both Houses, to repudiate the action in each case of their principals, to write something that suits them and that is in the teeth of the instructions of both Houses, I utterly deny.

The section to which I refer, as it came from the House, read as follows:

That any person engaged in commerce who shall lease or make a sale of goods, wares, merchandise, machinery, supplies, or other commodities for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Now, notice that was a broad section. It prohibited all classes of tying contracts. It was not limited to patented articles or to tying contracts relating to patented articles, but it embraced and covered the patented article along with every other kind of article.

The section was stricken out by the Senate Judiciary Committee. I brought the question to the attention of the Senate by a motion to restore the section. The vote on that motion showed a majority of one against restoring the section as it came from the House. I renewed the motion later, and again it was defeated; but the principal reason the House provision was not restored is to be found in the fact that it was well known upon the floor that the Senator from Montana [Mr. WALSH] intended to offer a substitute. That substitute was afterwards offered by the Senator from Montana and read as follows:

That it shall not be lawful to insert or incorporate a condition in any contract relating to the sale or lease of or license to use any article or process protected by a patent or patents the effect of which will be to prohibit or restrict the purchaser, lessee, or licensee from using any article or class of articles, whether patented or not, or any patented process, supplied or owned by any person other than the seller, lessor, or licensor, or his nominees, or the effect of which will be to require the purchaser, lessee, or licensee to acquire from the seller, lessor, or licensor, or his nominees any article or class of articles not protected by the patent; and any such conditions shall be null and void, as being in restraint of trade and contrary to public policy.

Mr. President, the distinction between the substitute offered by the Senator from Montana and section 4 as passed by the House was this: Section 4 as passed by the House covered all articles, patented and unpatented——

Mr. OVERMAN. No, Mr. President.

Mr. REED. And all classes of tying contracts attached to those articles.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from North Carolina?

Mr. REED. I do.

Mr. OVERMAN. No, Mr. President; the Senator is mistaken. The Senate committee put in the words "patented or unpatented."

Mr. REED. Very well.

Mr. OVERMAN. I think that was upon the Senator's own motion.

Mr. REED. Yes; that is true. The words were put in as a matter of precaution. Nevertheless, the general language of the bill as it came from the House would, in my opinion, have covered patented articles, certainly that is true, except for a case which had been overlooked, undoubtedly, in the House, and which was not considered until the bill came to the Senate. The case I refer to is the one known as Henry against Dick, in which it was held that a patentee had the lawful right to make a tying contract. Whether or not this section as it came from the House would have covered patented articles, such was clearly its purpose and intent, because the language was—

who shall lease or make a sale of goods, wares, merchandise, machinery, supplies, or other commodities—

And so forth.

The distinction, then, between the House bill and the Senate substitute as offered by Senator WALSH was that the House bill was intended to cover all kinds of articles, whereas the substitute was intended to apply only to patented articles. The House bill in covering all classes of goods was undoubtedly intended to cover patented goods. There was this further distinction: Senator WALSH's amendment had no penal clause. Thereupon I offered to amend the section by adding these words:

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both, in the discretion of the court.

That amendment was adopted by the Senate. Now, how stood the case? The House had prohibited tying contracts as applied to all classes of goods, and had provided a criminal penalty. The Senate cut down the scope of the House section, making it apply to only one of the classes of goods covered by the House section, and added the criminal penalty to that. The conferees of the House were in duty bound to stand for the criminal penalty, because the House had put it on not only with reference to patented and unpatented articles but with reference to other articles. The Senate conferees were bound to stand for it, because the Senate had specifically put it on with reference to patented articles. Then the conferees got together and took out the criminal clause as to everything. When they did so they violated their instructions from both wings of this Capitol.

Mr. OVERMAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from North Carolina?

Mr. REED. I do.

Mr. OVERMAN. Section 2 and section 4 were stricken from the House bill by the Senate. Those two sections then came up in conference. Our section 2, which was the Walsh amendment, as passed by the Senate, amended the House bill. Then our section 2 and the House sections 2 and 4 all went into conference. The conferees, of course, under the instructions of the Senate, could not accept as they were sections 2 and 4 of the House bill, and absolutely declined to accept section 2 of the House bill. The matter was settled by a compromise, by putting

in "patented or unpatented articles" and adopting sections 2 and 4 without the penalty.

Mr. REED. Since the Senator has gone into the reasons of the conferees, I should like to ask him if the House conferees insisted on taking out the criminal clause from their own section, which you were restoring?

Mr. OVERMAN. No; it was a common agreement of the conferees since the establishment of the Trade Commission that that ought to be left with the Trade Commission.

Mr. REED. In other words, the House conferees did not insist upon taking out the criminal penalty that the House had put in and although the Trade Commission bill had been passed before we passed this bill through the Senate, and although we had added a criminal penalty here, you consented to have it stricken out.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. I do.

Mr. BORAH. I understood the Senator from North Carolina to say that the reason for taking out the provision with reference to punishment was because it was thought unnecessary in view of the Trade Commission act.

Mr. OVERMAN. We concluded that it ought to be looked after by the Trade Commission; that that would prevent these discriminations.

Mr. BORAH. The first fruit, then, of the Trade Commission act is to eliminate the criminal liability from this trust act?

Mr. OVERMAN. No; the Trade Commission having defined it, making it unlawful, it was recognized that there was the jurisdiction under the Trade Commission to stop it whenever they saw it exercised.

Mr. BORAH. It does give jurisdiction to stop it, but nevertheless the first results substantially of the Trade Commission act is to emasculate the antitrust law so far as criminal statutes are concerned.

Mr. OVERMAN. It does not emasculate the Sherman antitrust law.

Mr. BORAH. I do not say the Sherman antitrust law; I said this trust law.

Mr. OVERMAN. As to these corrupt practices.

Mr. REED. Mr. President, it can not be that the House conferees came over here to take out the criminal penalties from their own sections. If they did they assumed to repudiate the action of the 435 Representatives who compose the House of Representatives. On the other hand, in what kind of a position are the Senate conferees placed? The Trade Commission bill had been enacted before I offered my amendment to add a criminal penalty to the Walsh substitute.

Mr. OVERMAN. Right there——

Mr. REED. And the Senate acted with full knowledge of the Trade Commission act and by a vote added the penalty.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from North Carolina?

Mr. REED. I do.

Mr. OVERMAN. I do not want to be misunderstood. The House conferees did not agree at once, but this was a matter of compromise. They preferred the House provision. The Senate had ordered us to strike out sections 2 and 4. The House conferees insisted upon their disagreement and they would not agree to our action, and the whole thing was a matter of compromise.

Mr. REED. I understand it was a matter of compromise. It was also a process of vivisection. The conferees operated upon the bill, and when you got through it was so thoroughly cut up that it does not make a respectable looking legislative corpse.

I can see how the House conferees could have come forward and said, "We want our section." I can see how the Senate conferees would have finally said, "We will yield to the House and give the House its sections." But how could the Senate conferees insist that if the body of the House section was restored the criminal clause should be stricken out in view of the fact that the Senate had expressly voted for the criminal clause? That, Mr. President, was not a compromise. That was going further than the House demanded.

Mr. WALSH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Montana?

Mr. REED. I do.

Mr. WALSH. I should like to inquire of the Senator from Missouri whether he feels that any importance at all is to be attached to the fact that after the House had passed the Clayton bill with the provisions of which the Senator now speaks it thereafter approved and adopted the Trade Commission bill with section 5 in that bill incorporated in it by the Senate, which denounced as unlawful all forms of unfair competition, and provided for the enforcement of them, and whether he does not think that a fair statement of the case ought to embrace a recital of that fact?

Mr. President, it is perfectly well known that those two sections went out of the Clayton bill here because of the conviction that the conditions with which they dealt in sections 2 and 4 were already provided for and taken care of by section 5 of the Trade Commission bill. The Senator from Missouri did not agree with the Senate about that; he thought they were not. The Senate thought otherwise. That bill went over to the House, and apparently the House agreed with the Senate concerning the significance of it and passed that bill. In view of the action of the House in passing the Trade Commission bill with that provision in it, which was here declared by the Senate to cover the case intended to be provided by sections 2 and 4 of the Clayton bill, does not the Senator think, with that statement of fact, he ought to advise the Senate and the country that the House had likewise declared in that form and thereby warranted its conferees in acceding to the action of the Senate in striking those provisions from the bill?

Mr. REED. Mr. President, it is certainly not necessary to say to the Senate what I think I have already said, that the Trade Commission bill was passed by the Senate before the Clayton bill was passed by the Senate. Everybody in the Senate knows it, and everybody in the country who has followed the course of events knows it.

Mr. WALSH. I simply want to ask the Senator——

Mr. REED. Let me conclude my answer. The Senator has asked me several questions, and I want a moment to answer one or two before the Senator asks further questions.

The Senator says that the section was stricken out of the bill by the Senate committee because it was thought that the Trade Commission bill covered the practices. That is true; it was so thought by some of the members; but was the provision reported by the conferees in that shape?

The Senator asks me if I do not think that the conferees were controlled by the same motive as the Senate committee when they went into conference. I answer no, because if they had been they would have allowed the section to stay out of the bill and justified their action on the ground that the matter had been taken care of by section 5 of the Trade Commission bill. On the contrary, they said it was not taken care of by section 5 of the Trade Commission bill when they insisted that it should be again inserted in this bill. It follows they took no such position as was taken by the Senate committee. The fact is that the Senate conferees, going from the Senate Chamber with the vote of the Senate in favor of a criminal penalty ringing in their ears, went to a House committee that was insisting on restoring section 4, which contained a criminal penalty and was otherwise practically equivalent to the Senate substitute, and the conferees thus instructed cut out the penalty clause. I think it came out because the conferees of the Senate wanted it out. I can not conceive of the House of Representatives insisting upon having their section restored and then insisting that it should not be completely restored but must be mutilated.

I now yield to the Senator from Montana.

Mr. WALSH. After all, the enforcement of the House provision was to be through the Trade Commission act.

Mr. REED. Yes.

Mr. WALSH. How could they insist upon a penalty unless there was a method of enforcing it?

Mr. REED. Certainly; that question is answered by the bill itself. There are two other sections in the bill. Where there is a criminal penalty and the sections are enforcible through the Interstate Commerce Commission or the Trade Commission.

Mr. WALSH. Can the Senator refer to the particular section?

Mr. REED. Certainly. Let me call the attention of the Senator to section 10 on page 13:

SEC. 10. That after two years from the approval of this act no common carrier engaged in commerce shall have any dealings in securities, supplies, or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than $50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction—

At the end is the clause—

If any common carrier shall violate this section it shall be fined not exceeding $25,000; and every such director, agent, manager, or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding $5,000, or confined in jail not exceeding one year, or both, in the discretion of the court.

There is still another criminal penalty.

Mr. WALSH. That is all. There is a general enforcement of that through the Trade Commission.

Mr. REED. Yes.

Mr. CULBERSON. There is no provision for the enforcement of section 10 by the Interstate Commerce Commission.

Mr. REED. I say there is. That is my opinion. I merely express it.

Mr. WALSH. If the Senator will refer to section 11, he will satisfy himself fully about it. Section 11 provides that sections 2 and 3 shall be enforceable by the Trade Commission.

Mr. CULBERSON. Those are the only ones.

Mr. WALSH. Those are the only ones.

Mr. REED (reading):

SEC. 11. That authority to enforce compliance with sections 2, 3, 7, and 8 of this act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers, in the Federal Reserve Board where applicable to banks, banking associations, and trust companies, and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. I do.

Mr. BORAH. Do I understand the supposition is that the Trade Commission under section 5 will only have jurisdiction of such form of unfair competition as may be turned over to its jurisdiction by some express statute? In any form of unfair competition which might arise anywhere the Trade Commission would have jurisdiction, would it not? So it would not be necessary in order that the Trade Commission might have jurisdiction of this particular section that it be specified in this statute that it shall have jurisdiction of it.

Mr. CULBERSON. This bill as reported by the conferees did not rely entirely upon the definition in section 5 of the trade commission act, but these particular acts in sections 2, 3, 7, and 8 were expressly denounced as unlawful and their enforcement was placed in the hands of the three commissions where applicable respectively.

Mr. BORAH. But if the Trade Commission as created should conceive that anything in the commercial world constituted unfair competition it could take jurisdiction of it and deal with it, could it not?

Mr. CULBERSON. I think so, under that act. But the conferees did not see fit to leave that to the discretion of the trade commission. They went further and denounced these acts respectively, each separately, under sections 2, 3, 7, and 8, and left their enforcement to the Trade Commission, in the case of banks to the Federal Reserve Board, and of common carriers to the Interstate Commerce Commission.

Mr. BORAH. Yes; I understand the position of the Senator from Texas.

Mr. CULBERSON. That is the bill.

Mr. BORAH. I understand the bill also, but suppose we had not designated and defined these particular acts to be unlawful, what we conceive to be unfair competition; suppose we had omitted them from the bill entirely, the Trade Commission as created, if then they had come within its jurisdiction, could have dealt with them. So we are simply assuming that possibly they might not take this view of it.

Mr. CULBERSON. I think the position of the Senator is the correct view, Mr. President.

Mr. REED. Mr. President, I think I can show the Senators that the commissions do have jurisdiction. Let me read section 10 a little further. I think we will find out that the Interstate Commerce Commission has something to do with it, at least.

Mr. WALSH. It is not the question that it has not something to do with it. The Senator called my attention to some provision of the bill where a certain act was denounced and penalized and at the same time a provision was made for the punishment and restriction of the act through the operation of the Federal Trade Commission. The Senator can not find anything of that kind, and I think, in candor, the Senator should say he was mistaken about it.

Mr. REED. If I am mistaken——

Mr. WALSH. Of course you are.

Mr. REED. Whenever I conclude that I am mistaken I will be quite candid. In the meantime I hardly need any lectures or any chiding or to be told what my duty is. Let me see whether I am wrong or right. I did not speak of the Trade Commission. I spoke of the commissions, and it is equally fatal to the point raised by the Senator whether this authority is vested in the trade commission or in the Interstate Commerce Commission or in the Federal Reserve Board.

Mr. WALSH. I agree with the Senator entirely, and the Senator, I think, will be unable to point out where at one and the same time an act is penalized and power is given to any commission to enforce it.

Mr. REED. Very well. Section 10:

That after two years from the approval of this act no common carrier engaged in commerce shall have any dealings in securities, supplies, or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than $50,000 in the aggregate in any one year with another corporation, firm, partnership, or association when the said common carrier shall have upon its board of directors or as its president, manager, or as its purchasing or selling officer, or agent in the particular transaction any person who is at the same time a director, manager, or purchasing or selling officer of or who has any substantial interest in such other corporation, firm, partnership, or association, unless and except such purchases shall be made from or such dealings shall be with the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors, and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within 30 days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner of the competitive bidding, who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section, it shall be fined not exceeding $25,000; and every such director, agent, manager, or officer thereof who shall have knowingly voted for or directed the act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding $5,000, or confined in jail not exceeding one year, or both, in the discretion of the court.

Mr. NELSON. Will the Senator yield to me for a moment?

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. REED. I do.

Mr. NELSON. In connection with the section the Senator has just read, I desire to call his attention to one peculiarity. While sections 2, 4, and 8 are put under the commission form of government, either the Interstate Commerce Commission or the Trade Commission, and also the section giving injunctive relief to individuals, this section 11 is both immune from the commission form of government under the Trade Commission act or under that style, and is also immune from injunctive relief under section 16. In other words, the men who furnish supplies to the railroad companies are put in a class by themselves and given immunity distinct from everybody else.

Mr. REED. Mr. President, there is another section here that I am not going to stop to examine. The point is not important. The Senate can judge whether I am correct or the Senator from Montana. The point raised is a mere side issue anyway. There is no reason why there may not be a criminal penalty and the commissions also exercise jurisdiction over civil violations.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. I do.

Mr. BORAH. There is one feature of this matter which is interesting to me. It seems to be conceded that punishment is inconsistent with the theory of the Trade Commission act, and that wherever the Trade Commission has jurisdiction the idea of punishment should be eliminated. I understand the theory upon which this particular clause was left out is because it came under the Trade Commission act, and that wherever the Trade Commission act operates, the theory of punishment should be eliminated.

Mr. REED. Mr. President, I want to say now, lest I forget it, that when we had section 5 of the Trade Commission bill here under discussion, and when it was alleged that we ought to write into that section a definition of what constitutes unfair competition, the argument was repeatedly made upon the floor of the Senate that that bill was to be followed by the Clayton bill, which named certain specific offenses or acts and denounced them. When it was alleged that there ought to be a penal clause put into the Trade Commission bill it was always met by the argument that these penal clauses were following in the Clayton bill. No sooner was the Trade Commission bill passed than these same gentlemen proceeded to use it to destroy the substan-

tive law which was to follow it and which we were told would be passed. Thus the country is to be deprived of antitrust legislation.

Now, Mr. President, returning after this very pleasant digression into a field that grew nothing but June grass, I call attention again to section 3 of the conference report. Not only did these gentlemen cut out the criminal provision, but they disemboweled the section. Now, mark, here came the House with a provision that denounced all tying contracts of whatsoever kind or nature as criminal, and proposed to so punish them. Here came the Senate denouncing contracts relating to patented articles and proposing to punish them. Here sit the assembled conferees with these instructions. They strike out first the criminal penalty, although both Houses had voted for a criminal penalty. The section had provided that all contracts for the sale of goods, wares, machinery, supplies, or other commodities, whether patented or unpatented, for use, consumption, or resale, which should attempt to fix a price on the goods sold upon the condition, agreement, or understanding that the purchaser should not use or deal in the goods, wares, merchandise, machinery, or supplies of another. The conferees added this language:

Where the effect of such lease, sale, or contract for sale or such condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

Before that amendment was put on it was enough to go into court and prove that a man had made a contract for the sale of an article, and in that contract had specified that the purchaser should not use some other article. That was all you had to prove, and the gates of the jail swung inward to receive the guilty man. But now, when you have proven the making of the contract, you have not made a case at all. You can be demurred out of court. You must go further and prove that the making of the contract may substantially lessen competition or tend to create a monopoly in that line of commerce.

Notice that the lessening of competition or the tendency to create monopoly in one section or city is not enough. The line of commerce, taken as a whole, must be substantially involved.

What individual contract could be said to so substantially affect an entire line of trade as to tend to create a monopoly? What contract would substantially lessen competition in an entire line of commerce? Apply that rule to the Standard Oil Co. Its "line of commerce" embraces the habitable earth. Its customers are all the civilized races of men. Its weekly sales mount far into the millions.

How will it ever be possible to prove that any single contract tends to substantially restrain competition or establish monopoly in a "line of business" so vast as to be incomprehensible? How are you going to prove that it may lessen competition? I affirm that you can not make a case out under that clause as easily as you can prove a restraint of trade, which is all that you have to prove in order to make a case under the Sherman Act.

Mr. NELSON. Will the Senator from Missouri yield to me a moment?

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. REED. I do.

Mr. NELSON. I call the Senator's attention to the fact in this connection that they have injected a new term which will lead to endless disputes—the word "substantially" in the phrase "substantially lessen competition." That is a phrase that is not included in the antitrust law. You will find running through this bill in half a dozen different places that same word "substantial" or "substantially," thus injecting a term that may lead to endless litigation as to what is substantially the lessening of competition.

Mr. REED. Mr. President, let us stop and analyze the situation now in which the representative of the Federal Government will find himself under this section. We will take the Shoe Machinery case, which is now pending. The Shoe Machinery Trust has a contract which contains a clause which in substance and effect is that whoever shall use one of the principal machines obtained from the Shoe Machinery Co. must obtain certain other machines from that company. That is what is called the "tying clause." As this section stood as written by the Senator from Montana [Mr. WALSH] the Government in the prosecution of that concern would only be obliged to come in and lay down the contract which the Shoe Machinery Co. had made with AB and prove that a machine had been delivered to AB under the terms of that contract. Thereupon the Government would have made a complete case and need go no step further; but under the present language of the bill, when the Government has done all that, it has done nothing; it must now prove, under the first clause of this amendment, that the making of that contract may be to substantially lessen competition in that line of commerce.

Let us see. Here are two concerns making the machines. They were in competition with each other before one of them made a tying contract. They are in competition with each other after the contract is made. Both of them, under this clause, have the right to make such a contract. There is the same degree of competition, exactly, after the contract is made that there was before the contract was made.

Here are 10 men engaged in selling horses. I make a contract with A by which, if I sell him one horse, he agrees to buy five other horses from me if he needs them. My rival, B, makes the same kind of contract, if he sees fit, with his customer, and so on through the 10. There are still 10 rivals in competition; there are still 10 men competing; the competition is still there; there has been no lessening of competition; but there has been a restraint of trade, because this man whom I compelled to sign a contract that he will buy in future from me and not from the other man is restrained of his natural right, his natural liberty to trade where he pleases; but the competition has not been lessened, though the opportunity of my rival has been lessened.

Mr. WALSH. Let me inquire of the Senator if that is the case, what harm does he see in it?

Mr. REED. I see great harm in the amendment to the section.

Mr. WALSH. I understand; but I refer to the case of which the Senator has spoken.

Mr. REED. I see great harm in it for this reason——

Mr. WALSH. Take the 10 men engaged in selling horses.

Mr. REED. I see tremendous harm in it. I distinguish between lessening competition and restraint of trade. You do not lessen competition until you have put your competitor into a position where he can no longer do business; but so long as he is there and can do business, you have not lessened competition, because all the men are competing who were originally competing. You may have restrained trade, you may have restrained the commercial liberty of the man who was forced to sign the contract, and you may have restrained the opportunity of the competitor to get that trade, but you need not have "substantially lessened competition in that line of commerce."

Mr. WALSH. Mr. President, if the Senator will pardon me, it was not the general matter about which he speaks that I was referring to. Here are 10 men engaged in raising horses. I am one of those 10. One of them comes to me and wants to buy a horse. I say "I will sell you this horse for $175." He says "I may want five or six horses more during the course of the winter." I say, "I will tell you what I will do; if you will agree to buy from me whatever horses you may need this winter at the same figure, I will sell you this horse for $150." What I want to know is, what is the harm in that?

Mr. REED. Mr. President, I ought not to be expected to stop and discuss the details of every little, simple illustration I use. In the case put by the Senator there would be no harm; in a little, simple transaction of that kind there would be no difficulty; but if we admit the principle, we must admit it for all cases. Accordingly, when an institution has gained, through the possession of a patented article, which is essential in some line of business or trade or manufacture, a monopoly, and thereupon, having a monopoly of that essential article proceeds to compel everybody who acquires the right to use it to buy everything else they use in their factory from the proprietor of that article, the result is monopoly, or restraint of trade. That is exactly the practice which has been followed by the Shoe Machinery Co. and by many other trusts.

Mr. WALSH. There is no doubt about that, and of course we all want to reach that case.

Mr. REED. Accordingly, if we are going to reach it, we can only reach it by a general provision.

Mr. WALSH. But the provision favored by the Senator I was afraid would stop the horse trader from making that kind of a contract.

Mr. REED. I am perfectly willing to stop him, and there is no reason why he should not be stopped; there is no reason why that kind of contract should be made. It is not essential to the public welfare; it does not make for the freedom of trade. We must, if we hope to reach these big concerns, make our laws so that occasionally some small man may have to alter his method of doing business.

But, Mr. President, I do not now want to be led aside into the discussion of details. What I am trying to impress upon the Senate and upon the conferees—and it is as hopeless a task as I ever undertook in my life to try to impress anything on the conferees—is that the term "substantially lessen competition in a line of business" can not be proven as easily as simple restraint of trade. If that be true, then the section is without

value, because, in order to make a case under it, the complainant must prove all that it is necessary to prove under the Sherman Act. Thus, I say, you have disembowled this section.

You have another phrase in the report, a catch phrase—I ought to say a catchpenny phrase—"or tend to create a monopoly in any line of commerce." Mr. President, it is the law to-day that when a combination tends to restraint of trade or monopoly, when that result may come therefrom, it is within the Sherman law. You are not obliged to prove that monopoly has been created; it is enough to show that the legitimate consequence of the act or acts complained of is monopoly or restraint of trade. So, after all this fulmination and after all this effort, we get nowhere.

To-day the Government goes in to try the Shoe Machinery Trust case—I go back to that because it has been often discussed. The first thing the Shoe Machinery Trust alleges is that, under the authority of the Dick case, they have a natural and legitimate monopoly by patent upon certain of their machines; and that, having that legitimate monopoly upon their machines, they have the right, under the decisions of the courts, to specify the terms and conditions upon which that monopoly can be used by the people. The decision in the Dick case, you will remember, stated that they could attach a little notice in the form of a license, "Only certain kinds of material purchased from us can be used on this machine." That practice is not made illegal by this bill; that is not condemned by this bill. It is only condemned by this bill when the complainant, in addition to proving the contract, can go further and show that the effect of the contract is to lessen competition, or that it tends to create a monopoly. In other words, the Government will be obliged to prove substantially all it has to prove to-day under the Sherman Act. Thus, I say, the conferees have very carefully, very artistically, with the skill of the trained surgeon and the delicate touch of experts, taken all the substance out of this provision.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. REED. I do.

Mr. NELSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Jones	Overman	Smith, Md.
Bankhead	Lane	Page	Smoot
Bryan	Lea, Tenn.	Perkins	Sterling
Chilton	Lewis	Pomerene	Swanson
Clapp	McLean	Reed	Thornton
Crawford	Martin, Va.	Robinson	Vardaman
Culberson	Martine, N. J.	Sheppard	Walsh
Fletcher	Myers	Shields	Warren
Hughes	Nelson	Shively	

Mr. LANE. I wish to announce that my colleague [Mr. CHAMBERLAIN] has been called from the Chamber on business of the Senate.

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. RANSDELL] on public business.

The VICE PRESIDENT. Thirty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of the absentees.

The Secretary called the names of the absent Senators, and Mr. KERN, Mr. OWEN, Mr. SHAFROTH, and Mr. WHITE responded to their names when called.

The VICE PRESIDENT. Thirty-nine Senators have answered to the roll call. There is not a quorum present.

Mr. CULBERSON. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The VICE PRESIDENT. The question is on the motion of the Senator from Texas.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will execute the order of the Senate.

Mr. SMITH of South Carolina, Mr. WEST, Mr. THOMPSON, Mr. SMITH of Arizona, Mr. POINDEXTER, Mr. HITCHCOCK, Mr. GORE, and Mr. STONE entered the Chamber and answered to their names.

Mr. REED. Mr. President, I should like to know the result of the roll call.

The VICE PRESIDENT. The Chair will state that 47 Senators have responded up to this time.

Mr. COLT, Mr. WILLIAMS, and Mr. MCCUMBER entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present.

RECESS.

Mr. KERN. I move that the Senate take a recess until 11 o'clock to-morrow forenoon.

The motion was agreed to; and (at 4 o'clock and 45 minutes p. m., Monday, September 28, 1914) the Senate took a recess until to-morrow, Tuesday, September 29, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *September 28, 1914.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Infinite and eternal Spirit, never very far from any of us, we would draw near to Thee, that our faith may be increased, our hearts purified, our lives ennobled; that we may be able to cast out the demons which doth so easily possess us, jealousy, anger, malice, hatred, revenge, avarice, licentiousness, and the rest of that ill-begotten family; that the better angels of our nature may be in the ascendancy, working the works of righteousness; that we may become altogether God-like, which is the real business of life, after the similitude of the Master. Amen.

The Journal of the proceedings of Saturday, September 26, 1914, was read and approved.

EXTENSION OF REMARKS.

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by giving the authentic status of the National American Woman's Suffrage Association in the congressional election.

The SPEAKER. The gentleman from Kansas [Mr. DOOLITTLE] asks unanimous consent to extend his remarks in the RECORD to show the real position of the Woman's Suffrage Association with reference to congressional elections. Is there objection?

Mr. MANN. Which association?

Mr. DOOLITTLE. The National American Woman's Suffrage Association.

Mr. MANN. Does the gentleman also show the position of the other association?

Mr. DOOLITTLE. They have no connection with the other association.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. ADAIR. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on matters of legislation.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. MADDEN. Mr. Speaker, I wish to ask unanimous consent to extend my remarks in the RECORD on the subject of the Clayton bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana [Mr. ADAIR]? [After a pause.] The Chair hears none. Is there objection to the request of the gentleman from Illinois [Mr. MADDEN]? [After a pause.] The Chair hears none.

Mr. HUMPHREY of Washington. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the general subject of legislation.

The SPEAKER. The gentleman from Washington asks unanimous consent to extend his remarks in the RECORD on the subject of legislation. Is there objection? [After a pause.] The Chair hears none.

Mr. PAYNE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of the state of the Union. [Laughter.]

The SPEAKER. The gentleman from New York [Mr. PAYNE] asks unanimous consent to extend his remarks in the RECORD on the subject of the state of the Union. Is there objection?

Mr. FITZGERALD. Is that the best information the gentleman can give as to what he is likely to effuse about?

Mr. PAYNE. I think that covers the scope. [Laughter.]

The SPEAKER. Is there objection?

Mr. FITZGERALD. Oh, well, let the gentleman from New York have it.

The SPEAKER. The Chair hears no objection.

ORDER OF BUSINESS.

Mr. JOHNSON of Kentucky. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.